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STATUTES

OF THE

PROVINCE OF ONTARIO

PASSED IN THE SESSION HELD IN THE

Tenth Year of the Reign of His Majesty
KING EDWARD VII.,

Being the Second Session of the Twelfth
Legislature of Ontario,

1910

BEGUN AND HOLDEN AT TORONTO ON THE TWENTY-FIFTH DAY OF JANUARY IN THE YEAR
OF OUR LORD ONE THOUSAND NINE HUNDRED AND TEN.



HIS HONOUR
JOHN MORISON GIBSON,
LIEUTENANT-GOVERNOR.

124664
25-10/12

TORONTO:
PRINTED AND PUBLISHED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty,
1910



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10 EDWARD VII.

CHAPTER 1.

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending on the 31st day of October, 1910, and for the public service of the financial year ending the 31st day of October, 1911.

Assented to 19th March, 1910.

MOST GRACIOUS SOVEREIGN:

WHEREAS it appears by messages from His Honour Preamble.

John Morison Gibson, Lieutenant-Governor of the Province of Ontario and the estimates accompanying the same, that the sums hereinafter mentioned in the schedules to this Act are required to defray certain expenses of the public service of this Province, not otherwise provided for, for the financial year ending on the 31st day of October, 1910, and for the financial year ending the 31st day of October, 1911, and for other purposes connected with the public service; May it therefore please Your Majesty that it may be enacted, and it is hereby enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

1. From and out of the Consolidated Revenue Fund of \$4,674,597.64 granted for year ending 31st October, 1910. this Province, there may be paid and applied a sum not exceeding in the whole Four million six hundred and seventy-four thousand five hundred and ninety-seven dollars and sixty-four cents, towards defraying the several charges and expenses of the public service of this Province not otherwise provided for, from the first day of November, 1909, to the thirty-first day of October, 1910, as set forth in Schedule "A" to this Act.

2. From and out of the Consolidated Revenue Fund of \$7,623,745.66 granted for fiscal year 1910-11. this Province, there may be paid and applied a sum not exceeding in the whole Seven million six hundred and twenty-three thousand seven hundred and forty-five dollars and sixty-six cents, towards defraying the several charges and

expenses of the public service of this Province, not otherwise provided for, from the first day of November, 1910, to the thirty-first day of October, 1911, as set forth in Schedule "B" to this Act.

Accounts to
be laid before
Assembly.

3. Accounts in detail of all moneys received on account of this Province during the said financial year 1909-1910, and of all expenditures under Schedule "A" of this Act, shall be laid before the Legislative Assembly at its first sitting after the completion of the said period; and accounts in detail of all moneys received on account of this Province during the financial year 1910-1911 and of all expenditures under Schedule "B" of this Act, shall be laid before the Legislative Assembly at the first sitting after the completion of the said financial year.

Appropriations for
1909-1910
unexpended,
to lapse.

4. Any part of the money under Schedule "A" appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of October, 1910, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day; and all balances remaining unexpended after the said date or at such subsequent date as may be fixed by the Lieutenant-Governor in Council under the provisions of *The Audit Act*, as amended by the Act passed at the last session intituled *An Act respecting the Fiscal Year*, shall on the first day of December following lapse and be written off.

Appropriations for
1910-1911
unexpended,
to lapse.

5. Any part of the money under Schedule "B" appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of October, 1911, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day; and all balances remaining unexpended after the said date or after a date fixed by the Lieutenant-Governor in Council as mentioned in section 4 shall on the first day of December following lapse and be written off.

Accounting
for expenditure.

6. The due application of all moneys expended under this Act out of the Consolidated Revenue shall be accounted for to His Majesty.

SCHEDULE "A."

Sums granted to His Majesty by this Act for the financial year ending on the thirty-first day of October, one thousand nine hundred and ten, and the purposes for which they are granted:—

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto:—

Office of the Prime Minister and President of the Council.....	\$100 00	
Attorney-General's Department..	1,755 00	
Education Department	750 00	
Lands, Forests and Mines Department	8,475 00	
Public Works Department.....	8,200 00	
Treasury Department	1,740 00	
Auditor's Office	2,300 00	
Provincial Secretary's Department	17,575 00	
Department of Agriculture.....	5,640 00	
Miscellaneous	250 00	
		\$46,785 00

LEGISLATION.

To defray expenses of Legislation..... \$26,260 00

ADMINISTRATION OF JUSTICE.

To defray expenses of Administration of Justice

\$61,719 64

EDUCATION.

To defray expenses of:—

Public and Separate School Education	\$41,062 55	
Normal and Model Schools, Toronto	550 00	
Normal and Model Schools, Ottawa	2,443 00	
Normal and Model Schools, London	50 00	
Normal School, Hamilton.....	260 00	
Normal School, Peterborough...	900 00	
Normal School, North Bay.....	675 00	
High Schools and Collegiate Institutes	5,200 00	
Departmental Library and Museum	1,200 00	
Public Libraries, Art Schools, Literary and Scientific.....	900 00	
Technical Education	8,600 00	
Maintenance Education Department and Miscellaneous	1,300 00	

Institution

Institution for Deaf and Dumb, Belleville	\$1,350 00	
Blind Institute, Brantford.....	3,900 00	
		<hr/>
		\$68,390 55

PUBLIC INSTITUTIONS' MAINTENANCE.

To defray expenses of:—

Hospital for Insane, Brockville.	\$3,000 00	
Hospital for Insane, Cobourg..	200 00	
Hospital for Insane, Hamilton..	2,400 00	
Hospital for Insane, Kingston..	350 00	
Hospital for Insane, London...	300 00	
Hospital for Insane, Mimico...	850 00	
Hospital for Feeble Minded, Orillia	1,750 00	
Hospital for Insane, Penetan- guishene	300 00	
Hospital for Insane, Toronto...	1,750 00	
Hospital for Epileptics, Wood- stock	2,000 00	
Central Prison, Toronto.....	3,550 00	
Central Prison Industries.....	250 00	
Mercer Reformatory, Toronto..	700 00	
		<hr/>
		\$17,400 00

AGRICULTURE.

To defray expenses of a grant in aid of Agri- culture	\$52,018 00
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COLONIZATION AND IMMIGRATION.

To defray expenses of Colonization and Immi- gration	\$26,375 00
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STATIONARY ENGINEERS.

To defray expenses of Stationary Engineers.	\$100 00
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HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of Hos- pitals and Charities	\$46,750 00
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MAINTENANCE AND REPAIRS OF GOVERNMENT AND
DEPARTMENTAL BUILDINGS.

Government House	\$4,187 58	
Parliament and Departmental Buildings	219,521 00	
		<hr/>
		\$223,708 58

PUBLIC

PUBLIC BUILDINGS.

Government House	\$125,000	00
Osgoode Hall	70,425	18

Public Institutions:—

Hospital for Insane, Brockville..	16,000	00
Hospital for Insane, Cobourg...	3,300	00
Hospital for Insane, Hamilton..	28,800	00
Hospital for Insane, Kingston..	23,000	00
Hospital for Insane, London...	41,570	00
Hospital for Insane, Mimico...	19,600	00

Hospital for Feeble Minded, Orillia	14,000	00
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Hospital for Insane, Penetanguishene	14,900	00
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Hospital for Insane, Toronto...	9,000	00
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Hospital for Epileptics, Woodstock	6,500	00
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Central Prison, Toronto.....	129,500	00
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Mercer Reformatory, Toronto..	5,000	00
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Educational:—

Normal and Model Schools, Toronto	16,595	00
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Normal and Model School, Ottawa	2,660	00
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Normal School, London.....	990	00
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Normal School, Hamilton.....	1,300	00
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Normal School, Peterborough...	3,600	00
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Normal School, Stratford.....	2,300	00
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Normal School, North Bay....	5,600	00
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New Normal Schools.....	7,558	00
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Deaf and Dumb Institute, Belleville	8,725	00
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Institution for the Blind, Brantford	10,774	00
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Ontario Agricultural College....	17,750	00
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Fruit Experimental Station....	600	00
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Winter Fair Building (addition)	1,000	00
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Eastern Dairy School.....	3,500	00
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Colonization and Immigration		
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Buildings	17,445	71
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Hygienic Building, London....	7,800	00
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Childrens' Shelter	500	00
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Districts:—

Muskoka	1,005	13
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Parry Sound	700	00
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Sault Ste. Marie	2,500	00
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Thunder Bay	3,113	31
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Rainy River	1,530	00
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Nipissing	7,387	85
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Manitoulin	600	00
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Sudbury	4,447	00
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Kenora	29,075	00
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Total Public Buildings...		\$665,651 18
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PUBLIC WORKS.

To defray expenses of Public Works..... \$213,637 00

COLONIZATION AND MINING ROADS.

To defray expenses of Construction and Repairs \$464,356 99

CHARGES ON CROWN LANDS.

To defray expenses on account of Crown Lands \$117,750 00

REFUNDS.

Lands, Forests and Mines.....	\$1,250 00	
Land Improvement Fund.....	1,338 04	
Succession Duty	33,000 00	
		<hr/> \$35,588 04

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure.....\$2,608,107 66

Total Estimates for Expenditure of 1909-	
1910	<hr/> \$4,674,597 64

SCHEDULE "B."

Sums granted to His Majesty by this Act for the financial year ending on the thirty-first day of October, one thousand nine hundred and eleven, and the purposes for which they are granted:—

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto:—

Lieutenant-Governor's Office...	\$4,650 00
Office of the Prime Minister and President of the Council	7,850 00
Attorney-General's Department	65,276 00
Education Department	29,960 00
Lands, Forests and Mines Department	137,900 00
Public Works Department....	66,660 00
Treasurer's Department	33,804 00
Auditor's Office	15,280 00

Provincial

Provincial Secretary's Department	\$173,345 00	
Department of Agriculture ...	62,010 00	
Miscellaneous	18,850 00	
		<hr/> \$615,585 00

LEGISLATION.

To defray expenses of Legislation.....	\$255,450 00
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ADMINISTRATION OF JUSTICE.

To defray expenses of Administration of Justice	\$690,741 66
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EDUCATION.

To defray expenses of:—		
Public and Separate School Education	\$992,100 00	
Normal and Model Schools, Toronto	45,290 00	
Normal and Model Schools, Ottawa	46,605 00	
Normal School, London....	25,175 00	
Normal School, Hamilton....	21,075 00	
Normal School, Peterborough.	21,705 00	
Normal School, Stratford....	20,955 00	
Normal School, North Bay..	24,960 00	
High Schools and Collegiate Institutes	154,100 00	
Departmental Library and Museum	18,200 00	
Public Libraries, Art Schools, Literary and Scientific	60,900 00	
Technical Education	63,800 00	
Superannuated Public and High School Teachers.....	62,650 00	
Provincial University and Mining Schools	42,200 00	
Maintenance Education Department and Miscellaneous Institution for Deaf and Dumb, Belleville	59,393 00	
Blind Institute, Brantford ..	43,250 00	
		<hr/> \$1,734,187 00

PUBLIC INSTITUTIONS' MAINTENANCE.

To defray expenses of:—	
Hospital for Insane, Brockville	\$113,106 00

Hospital

Hospital for Insane, Cobourg.	\$28,000 00	
Hospital for Insane, Hamilton.	171,127 00	
Hospital for Insane, Kingston.	119,193 00	
Hospital for Insane, London..	164,000 00	
Hospital for Insane, Mimico..	102,550 00	
Hospital for Feeble Minded, Orillia	88,467 00	
Hospital for Insane, Penetan- guishene	68,765 00	
Hospital for Insane, Toronto..	155,947 00	
Hospital for Epileptics, Wood- stock	38,736 00	
Central Prison, Toronto.....	75,040 00	
Central Prison Industries....	63,470 00	
Mercer Reformatory, Toronto.	30,925 00	
		<hr/> \$1,219,326 00

AGRICULTURE.

To defray expenses of a grant in aid of Agri- culture	\$634,606 00
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COLONIZATION AND IMMIGRATION.

To defray expenses of Colonization and Im- migration	\$73,800 00
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STATIONARY ENGINEERS.

To defray expenses of Stationary Engineers.	\$6,050 00
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HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of Hos- pitals and Charities	\$319,700 00
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MAINTENANCE AND REPAIRS OF GOVERNMENT AND
DEPARTMENTAL BUILDINGS.

Government House	\$18,000 00	
Parliament and Departmental Buildings	193,100 00	
		<hr/> \$211,100 00

PUBLIC BUILDINGS.

Government House	\$100,000 00
Parliament Buildings	200,000 00
Osgoode Hall	67,400 00
Public Institutions	101,600 00
Educational	11,500 00

Agriculture

Agriculture	\$800 00	
Districts	22,250 00	
	<hr/>	\$503,550 00

PUBLIC WORKS.

To defray expenses of Public Works.....	\$69,700 00
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COLONIZATION AND MINING ROADS.

To defray expenses of Construction and Repairs	\$118,000 00
--	--------------

CHARGES ON CROWN LANDS.

To defray expenses on account of Crown Lands	\$561,000 00
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REFUNDS.

Education	\$1,000 00	
Lands, Forests and Mines....	17,000 00	
Miscellaneous	12,000 00	
Succession Duty	33,000 00	
	<hr/>	\$63,000 00

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure.....	\$547,950 00
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Total Estimates for Expenditure of 1910-1911	\$7,623,745 66
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CHAPTER 2.

An Act respecting the Territorial Division of Ontario for Municipal and Judicial purposes.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.
 EXISTING DIVISIONS OF ONTARIO
 CONTINUED, s. 2.
 Counties, s. 2 (1-42).
 Provisional County of Hal-
 burton, s. 2 (43).
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 ISLANDS, s. 10.
 FORMATION OF NEW TOWNSHIPS,
 s. 11.
 CHANGING NAMES OF TOWNSHIPS,
 s. 12.
 ANNEXATION OF GORES OF LAND TO
 TOWNSHIPS, s. 13.
 LIEUT.-GOVERNOR MAY DECLARE TO
 WHAT TOWNSHIP ANY ISLAND
 BELONGS, s. 14.
 REPEAL, s. 15.

HIS MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of On-
 tario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Territorial Division Act.*"

Existing
organization
continued.

2. The territorial division of Ontario into Counties and
 Districts shall continue as hereinafter set forth, and for
 municipal and judicial purposes such Counties, and for
 judicial purposes such Districts, shall respectively be com-
 posed as follows. R.S.O. 1897, c. 3, s. 1, *part*.

Brant.

1.—THE COUNTY OF BRANT

Shall consist of the Townships of—

- | | |
|---------------------|---------------|
| 1. Brantford, | 4. Oakland, |
| 2. Burford, | 5. Onondaga, |
| 3. Dumfries, South, | 6. Tuscarora, |

The City of Brantford,
 And the Town of Paris.

R.S.O. 1897, c. 3, s. 1 (1).

2.—THE COUNTY OF BRUCE

Shall consist of the Townships of—

Bruce.

- | | |
|---------------|------------------|
| 1. Arran, | 9. Elderslie, |
| 2. Albemarle, | 10. Greenock, |
| 3. Amabel, | 11. Huron, |
| 4. Brant, | 12. Kincardine, |
| 5. Bruce, | 13. Kinloss, |
| 6. Carrick, | 14. Lindsay, |
| 7. Culross, | 15. St. Edmunds, |
| 8. Eastnor, | 16. Saugeen. |

The Towns of—

- | | |
|-----------------|---------------|
| 1. Chesley, | 4. Walkerton, |
| 2. Kincardine, | 5. Wiarton, |
| 3. Southampton, | |

And the Villages of—

- | | |
|----------------|---------------|
| 1. Hepworth, | 5. Tara, |
| 2. Lucknow, | 6. Teeswater, |
| 3. Paisley, | 7. Tiverton. |
| 4. Port Elgin, | |

The Indian Reserve at Cape Croker shall for judicial purposes be deemed part of the Township of Albemarle.

The Indian Reserve at Chiefs Point and the Saugeen Indian Reserve North of the mouth of the Saugeen River shall for judicial purposes be deemed part of the Township of Amabel.

R.S.O. 1897, c. 3, s. 1 (2); 7 Edw. VII., c. 70.

3.—THE COUNTY OF CARLETON

Carleton.

Shall consist of the Townships of—

- | | |
|------------------|-----------------|
| 1. Fitzroy, | 6. March, |
| 2. Gloucester, | 7. Marlborough, |
| 3. Goulburn, | 8. Nepean, |
| 4. Gower, North, | 9. Osgoode, |
| 5. Huntley, | 10. Torbolton, |

The City of Ottawa,

And the Villages of—

- | | |
|--------------|--------------|
| 1. Eastview, | 2. Richmond, |
|--------------|--------------|
- R.S.O. 1897, c. 3, s. 1 (3).

4.—THE COUNTY OF DUFFERIN

Dufferin.

Shall consist of the Townships of—

- | | |
|---------------------|----------------|
| 1. Amaranth, | 4. Melancthon, |
| 2. Garafraxa, East, | 5. Mono, |
| 3. Luther, East, | 6. Mulmur, |

The Town of Orangeville,

And the Villages of—

- | | |
|------------------|---------------|
| 1. Grand Valley, | 2. Shelburne. |
|------------------|---------------|
- R.S.O. 1897, c. 3, s. 1 (4).

Dundas.

5.—THE COUNTY OF DUNDAS

Shall consist of the Townships of—

- | | |
|--------------|-------------------|
| 1. Matilda, | 3. Williamsburgh, |
| 2. Mountain, | 4. Winchester, |
- And the Villages of—

- | | |
|------------------|-----------------|
| 1. Chesterville, | 3. Morrisburgh, |
| 2. Iroquois, | 4. Winchester. |

R.S.O. 1897, c. 3, s. 1 (5).

Durham.

6.—THE COUNTY OF DURHAM

Shall consist of the Townships of—

- | | |
|----------------|----------------|
| 1. Cartwright, | 4. Darlington, |
| 2. Cavan, | 5. Hope, |
| 3. Clarke, | 6. Manvers, |

The Towns of—

- | | |
|-----------------|---------------|
| 1. Bowmanville, | 2. Port Hope, |
|-----------------|---------------|
- And the Villages of—

- | | |
|---------------|---------------|
| 1. Millbrook, | 2. Newcastle. |
|---------------|---------------|

R.S.O. 1897, c. 3, s. 1 (6).

Elgin.

7.—THE COUNTY OF ELGIN

Shall consist of the Townships of—

- | | |
|-----------------------|---------------|
| 1. Aldborough, | 5. Malahide, |
| 2. Bayham, | 6. Southwold, |
| 3. Dorchester, South, | 7. Yarmouth, |
| 4. Dunwich, | |

The City of St. Thomas,

The Town of Aylmer,

And the Villages of—

- | | |
|------------------|-----------------|
| 1. Dutton, | 4. Springfield, |
| 2. Port Stanley, | 5. Vienna, |
| 3. Rodney, | 6. West Lorne. |

R.S.O. 1897, c. 3, s. 1 (7).

Essex.

8.—THE COUNTY OF ESSEX

Shall consist of the Townships of—

- | | |
|-----------------------|----------------------|
| 1. Anderdon, | 9. Pelée, |
| 2. Colchester, North, | 10. Rochester, |
| 3. Colchester, South, | 11. Sandwich, East, |
| 4. Gosfield, North, | 12. Sandwich, West, |
| 5. Gosfield, South, | 13. Sandwich, South, |
| 6. Maidstone, | 14. Tilbury, North, |
| 7. Malden, | 15. Tilbury, West, |
| 8. Mersea, | |

The City of Windsor,

The Towns of—

- | | |
|-----------------|-----------------|
| 1. Amherstburg, | 4. Leamington, |
| 2. Essex, | 5. Sandwich, |
| 3. Kingsville. | 6. Walkerville, |

And

And the Village of Belle River,

Except that the Township of Pelée shall continue to be separate, for municipal purposes, from the County of Essex.

R.S.O. 1897, c. 3, s. 1 (8); 1 Edw. VII. c. 58.

9.—THE COUNTY OF FRONTENAC

Frontenac.

Shall consist of the Townships of—

- | | |
|--------------------|---|
| 1. Barrie, | 10. Loughborough, |
| 2. Bedford, | 11. Miller, |
| 3. Canonto, North, | 12. Olden, |
| 4. Canonto, South, | 13. Oso, |
| 5. Clarendon, | 14. Palmerston, |
| 6. Hinchinbrooke, | 15. Pittsburg, |
| 7. Howe Island, | 16. Portland, |
| 8. Kennebec, | 17. Storrington, |
| 9. Kingston, | 18. Wolfe Island (including
Simcoe Island, Horse Shoe Island and Mud Island),
The City of Kingston,
And the Villages of— |

- | | |
|-------------------|----------------|
| 1. Garden Island, | 2. Portsmouth. |
|-------------------|----------------|

R.S.O. 1897, c. 3, s. 1 (9).

10.—THE COUNTY OF GLENGARRY

Glengarry.

Shall consist of the Townships of—

- | | |
|---|---------------|
| 1. Charlottenburgh, | 3. Lancaster, |
| 2. Kenyon, | 4. Lochiel, |
| The Town of Alexandria,
And the Villages of— | |

- | | |
|---------------|--------------|
| 1. Lancaster, | 2. Maxville. |
|---------------|--------------|

R.S.O. 1897, c. 3, s. 1 (10).

11.—THE COUNTY OF GRENVILLE

Grenville.

Shall consist of the Townships of—

- | | |
|---|------------------------|
| 1. Augusta, | 4. Oxford (on Rideau), |
| 2. Edwardsburgh, | 5. Wolford, |
| 3. Gower, South, | |
| The Town of Prescott,
And the Villages of— | |

- | | |
|----------------|------------------|
| 1. Cardinal, | 3. Merrickville. |
| 2. Kemptville, | |

R.S.O. 1897, c. 3, s. 1 (11).

12.—THE COUNTY OF GREY

Grey.

Shall consist of the Townships of—

- | | |
|-----------------|---------------|
| 1. Artemesia, | 5. Egremont, |
| 2. Bentineck, | 6. Euphrasia, |
| 3. Collingwood, | 7. Glenelg, |
| 4. Derby, | 8. Holland, |

- | | |
|----------------------|--------------------|
| 9. Keppel, | 13. Saint Vincent, |
| 10. Normanby, | 14. Sarawak, |
| 11. Osprey, | 15. Sullivan, |
| 12. Proton, | 16. Sydenham, |
| The Towns of— | |
| 1. Durham, | 4. Owen Sound, |
| 2. Hanover, | 5. Thornbury, |
| 3. Meaford, | |
| And the Villages of— | |
| 1. Chatsworth, | 3. Markdale, |
| 2. Dundalk, | 4. Neustadt. |

R.S.O. 1897, c. 3, s. 1 (12); 4 Edw. VII. c. 43;
7 Edw. VII. c. 75.

Haldimand.

13.—THE COUNTY OF HALDIMAND

Shall consist of the Townships of—

- | | |
|------------------------|-----------------|
| 1. Canborough, | 6. Oneida, |
| 2. Cayuga, North, | 7. Rainham, |
| 3. Cayuga, South, | 8. Seneca, |
| 4. Dunn, | 9. Sherbrooke, |
| 5. Moulton, | 10. Walpole, |
| The Town of Dunnville, | |
| And the Villages of— | |
| 1. Caledonia, | 3. Hagersville. |
| 2. Cayuga, | |

R.S.O. 1897, c. 5, s. 1 (13).

Halton.

14.—THE COUNTY OF HALTON

Shall consist of the Townships of—

- | | |
|----------------------|----------------|
| 1. Esquesing, | 3. Nelson, |
| 2. Nassagaweya, | 4. Trafalgar, |
| The Towns of— | |
| 1. Milton, | 2. Oakville, |
| And the Villages of— | |
| 1. Acton, | 3. Georgetown. |
| 2. Burlington, | |

R.S.O. 1897, c. 5, s. 1 (14).

Hastings.

15.—THE COUNTY OF HASTINGS

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Bangor, | 8. Herschel, |
| 2. Carlow, | 9. Hungerford, |
| 3. Cashel, | 10. Huntingdon, |
| 4. Dungannon, | 11. Lake, |
| 5. Elzevir, | 12. Limerick, |
| 6. Faraday, | 13. Madoc, |
| 7. Grimsthorpe, | 14. Marmora, |

- | | |
|-------------------------|-----------------|
| 15. Mayo, | 20. Thurlow, |
| 16. McClure, | 21. Tudor, |
| 17. Monteagle, | 22. Tyendinaga, |
| 18. Rawdon, | 23. Wicklow, |
| 19. Sidney, | 24. Wollaston, |
| The City of Belleville, | |
| The Towns of— | |
| 1. Deseronto, | 2. Trenton, |
| And the Villages of— | |
| 1. Bancroft, | 4. Stirling, |
| 2. Madoc, | 5. Tweed. |
| 3. Marmora, | |

R.S.O. 1897, c. 5, s. 1 (15).

16.—THE COUNTY OF HURON

Huron.

Shall consist of the Townships of—

- | | |
|----------------------|---------------------|
| 1. Ashfield, | 9. Morris. |
| 2. Colborne, | 10. Stanley, |
| 3. Goderich, | 11. Stephen, |
| 4. Grey, | 12. Tuckersmith, |
| 5. Hay, | 13. Turnberry, |
| 6. Howick, | 14. Usborne, |
| 7. Hullett, | 15. Wawanosh, East, |
| 8. McKillop, | 16. Wawanosh, West, |
| The Towns of— | |
| 1. Clinton, | 3. Seaforth, |
| 2. Goderich, | 4. Wingham, |
| And the Villages of— | |
| 1. Bayfield, | 4. Exeter, |
| 2. Blythe, | 5. Hensall, |
| 3. Brussels, | 6. Wroxeter. |

R.S.O. 1897, c. 5, s. 1 (16).

17.—THE COUNTY OF KENT

Kent.

Shall consist of the Townships of—

- | | |
|----------------------|--------------------|
| 1. Camden, | 7. Orford, |
| 2. Chatham, | 8. Raleigh, |
| 3. Dover, East, | 9. Romney, |
| 4. Dover, West, | 10. Tilbury, East, |
| 5. Harwich, | 11. Zone, |
| 6. Howard, | |
| The City of Chatham, | |
| The Towns of— | |
| 1. Blenheim, | 4. Ridgetown, |
| 2. Bothwell, | 5. Tilbury, |
| 3. Dresden, | 6. Wallaceburg, |
| And the Village of— | |
| 1. Thamesville. | |

R.S.O. 1897, c. 3, s. 1 (17); 9 Edw. VII. c. 124.

18.—THE COUNTY OF LAMBTON

Shall consist of the Townships of—

Lambton.

- | | |
|-----------------|---------------------------|
| 1. Bosanquet, | 8. Sarnia, |
| 2. Brooke, | 9. Sombra, including Wal- |
| 3. Dawn, | pole Island, St. Anne's |
| 4. Enniskillen, | Island and the other |
| 5. Euphemia, | Islands at the mouth |
| 6. Moore, | of the River St. Clair, |
| 7. Plympton, | 10. Warwick, |

The Towns of—

- | | |
|--------------|------------|
| 1. Forest, | 3. Sarnia, |
| 2. Petrolia, | |

And the Villages of—

- | | |
|-----------------|------------------|
| 1. Alvinston, | 5. Point Edward, |
| 2. Arkona, | 6. Thedford, |
| 3. Courtright, | 7. Watford, |
| 4. Oil Springs, | 8. Wyoming. |

R.S.O. 1897, c. 3, s. 1 (18); 7 Edw. VII. c. 64.

Lanark.

19.—THE COUNTY OF LANARK.

Shall consist of the Townships of—

- | | |
|--------------------|------------------------|
| 1. Bathurst, | 8. Lanark, |
| 2. Beckwith, | 9. Lavant, |
| 3. Burgess, North, | 10. Montague, |
| 4. Dalhousie, | 11. Pakenham, |
| 5. Darling, | 12. Ramsay, |
| 6. Drummond, | 13. Sherbrooke, North, |
| 7. Elmsley, North, | 14. Sherbrooke, South, |

The Towns of—

- | | |
|--------------------|-------------------|
| 1. Almonte, | 3. Perth, |
| 2. Carleton Place, | 4. Smith's Falls, |

And the Village of Lanark.

R.S.O. 1897, c. 3, s. 1 (19).

Leeds.

20.—THE COUNTY OF LEEDS

Shall consist of the Townships of—

- | | |
|---------------------|-----------------------------|
| 1. Bastard, | 8. Kitley, |
| 2. Burgess, South, | 9. Leeds and Lansdowne, |
| 3. Crosby, North, | Front, |
| 4. Crosby, South, | 10. Leeds and Lansdowne, |
| 5. Elizabethtown, | Rear, |
| 6. Elmsley, South, | 11. Yonge, Front of, |
| 7. Front of Escott, | 12. Yonge and Escott, Rear, |

The Towns of—

- | | |
|----------------|---------------|
| 1. Brockville, | 2. Gananoque. |
|----------------|---------------|

And

And the Villages of—

- | | |
|--------------|--------------|
| 1. Athens, | 3. Westport. |
| 2. Newboro', | |

R.S.O. 1897, c. 3, s. 1 (20); 5 Edw. VII. c. 49.

21.—THE COUNTY OF LENNOX AND ADDINGTON Lennox and Addington.

Shall consist of the Townships of—

- | | |
|--------------------|-----------------------------|
| 1. Abinger, | 8. Effingham, |
| 2. Adolphustown, | 9. Ernestown, |
| 3. Amherst Island, | 10. Fredericksburgh, North, |
| 4. Anglesea, | 11. Fredericksburgh, South, |
| 5. Ashby, | 12. Kaladar, |
| 6. Camden, East, | 13. Richmond, |
| 7. Denbigh, | 14. Sheffield, |

The Town of Napanee,
And the Villages of—

- | | |
|----------|--------------|
| 1. Bath, | 2. Newburgh. |
|----------|--------------|

R.S.O. 1897, c. 3, s. 1 (21).

22.—THE COUNTY OF LINCOLN

Lincoln.

Shall consist of the Townships of—

- | | |
|---------------|--------------------|
| 1. Caistor, | 5. Grimsby, North, |
| 2. Clinton, | 6. Grimsby, South, |
| 3. Gainsboro, | 7. Louth, |
| 4. Grantham, | 8. Niagara, |

The City of St. Catharines,
The Town of Niagara,
And the Villages of—

- | | |
|----------------|--------------------|
| 1. Beamsville, | 3. Merritton, |
| 2. Grimsby, | 4. Port Dalhousie. |

R.S.O. 1897, c. 3, s. 1 (22).

23.—THE COUNTY OF MIDDLESEX

Middlesex.

Shall consist of the Townships of—

- | | |
|-----------------------|---------------------|
| 1. Adelaide, | 9. McGillivray, |
| 2. Biddulph, | 10. Metcalfe, |
| 3. Caradoc, | 11. Mosa, |
| 4. Delaware, | 12. Nissouri, West, |
| 5. Dorchester, North, | 13. Westminster, |
| 6. Ekfrid, | 14. Williams, East, |
| 7. Lobo, | 15. Williams, West, |
| 8. London, | |

The City of London.

The Towns of—

- | | |
|--------------|---------------|
| 1. Parkhill, | 2. Strathroy, |
|--------------|---------------|

And

And the Villages of—

- | | |
|-----------------|----------------|
| 1. Ailsa Craig, | 4. Newbury, |
| 2. Glencoe, | 5. Wardsville. |
| 3. Lucan, | |

R.S.O. 1897, c. 3, s. 1 (23).

Norfolk.

24.—THE COUNTY OF NORFOLK

Shall consist of the Townships of—

- | | |
|-----------------------|---------------------------|
| 1. Charlotteville, | 6. Walsingham, South (in- |
| 2. Houghton, | cluding Long Point), |
| 3. Middleton, | 7. Windham, |
| 4. Townsend, | 8. Woodhouse, |
| 5. Walsingham, North, | |
| The Town of Simcoe, | |
| And the Villages of— | |

- | | |
|----------------|----------------|
| 1. Delhi, | 3. Port Rowan, |
| 2. Port Dover, | 4. Waterford. |

R.S.O. 1897, c. 3, s. 1 (24).

Northumber-
land.

25.—THE COUNTY OF NORTHUMBERLAND

Shall consist of the Townships of—

- | | |
|---------------|---------------------|
| 1. Alnwick, | 6. Monaghan, South, |
| 2. Brighton, | 7. Murray, |
| 3. Cramahe, | 8. Percy, |
| 4. Haldimand, | 9. Seymour, |
| 5. Hamilton, | |

The Towns of—

- | | |
|----------------------|-----------------|
| 1. Cobourg, | 2. Campbellford |
| And the Villages of— | |
| 1. Brighton, | 3. Hastings. |
| 2. Colborne, | |

R.S.O. 1897, c. 3, s. 1 (25); 6 Edw. VII. c. 66.

Ontario.

26.—THE COUNTY OF ONTARIO

Shall consist of the Townships of—

- | | |
|---------------|-----------------------------|
| 1. Brock, | 7. Scugog, |
| 2. Mara, | 8. Thorah (including Canise |
| 3. Pickering, | Island), |
| 4. Rama, | 9. Uxbridge, |
| 5. Reach, | 10. Whitby, East, |
| | 11. Whitby, |

The Towns of—

- | | |
|--------------|------------|
| 1. Oshawa, | 3. Whitby, |
| 2. Uxbridge, | |

And

And the Villages of—

- | | |
|----------------|----------------|
| 1. Beaverton, | 3. Port Perry. |
| 2. Cannington, | |

R.S.O. 1897, c. 3, s. 1 (26).

27.—THE COUNTY OF OXFORD

Oxford

Shall consist of the Townships of—

- | | |
|------------------------|-------------------|
| 1. Blandford, | 7. Oxford, North, |
| 2. Blenheim, | 8. Oxford, East, |
| 3. Dereham, | 9. Oxford, West, |
| 4. Nissouri, East, | 10. Zorra, East, |
| 5. Norwich, North, | 11. Zorra, West, |
| 6. Norwich, South, | |
| The City of Woodstock, | |
| The Towns of— | |

- | | |
|----------------------|-----------------|
| 1. Ingersoll, | 2. Tillsonburg, |
| And the Villages of— | |

- | | |
|-------------|---------------|
| 1. Embro, | 3. Tavistock. |
| 2. Norwich, | |

R.S.O. 1897, c. 3, s. 1 (27); 1 Edw. VII. c. 75; 2 Edw. VII. c. 64.

28.—THE COUNTY OF PEEL

Peel.

Shall consist of the Townships of—

- | | |
|-----------------------|------------------|
| 1. Albion, | 4. Toronto, |
| 2. Caledon, | 5. Toronto Gore, |
| 3. Chinguacousy, | |
| The Town of Brampton, | |
| And the Villages of— | |
| 1. Bolton, | 2. Streetsville. |

29.—THE COUNTY OF PERTH

Perth.

Shall consist of the Townships of—

- | | |
|--|-----------------|
| 1. Blanshard, | 6. Elma, |
| 2. Downie (including the
Gore of Downie), | 7. Fullarton, |
| 3. Easthope, North, | 8. Hibbert, |
| 4. Easthope, South, | 9. Logan, |
| 5. Ellice, | 10. Mornington, |
| | 11. Wallace, |
| The City of Stratford, | |
| The Towns of— | |
| 1. Listowel, | 3. St. Mary's, |
| 2. Mitchell, | |
| And the Village of Milverton. | |

R.S.O. 1897, c. 3, s. 1 (29).

Peterborough.

30.—THE COUNTY OF PETERBOROUGH.

Shall consist of the Townships of—

- | | |
|----------------|----------------------|
| 1. Anstruther, | 9. Ennismore, |
| 2. Asphodel, | 10. Galway, |
| 3. Belmont, | 11. Harvey, |
| 4. Burleigh, | 12. Methuen, |
| 5. Cavendish, | 13. Monaghan, North, |
| 6. Chandos, | 14. Otonabee, |
| 7. Douro, | 15. Smith, |
| 8. Dummer, | |

The City of Peterborough,

And the Villages of—

- | | |
|---------------|-------------|
| 1. Havelock, | 3. Norwood. |
| 2. Lakefield, | |

Prescott.

R.S.O. 1897, c. 3, s. 1 (30); 5 Edw. VII. c. 67.

31.—THE COUNTY OF PRESCOTT.

Shall consist of the Townships of—

- | | |
|----------------------|------------------------|
| 1. Alfred, | 5. Longueuil, |
| 2. Caledonia, | 6. Plantagenet, North, |
| 3. Hawkesbury, East, | 7. Plantagenet, South, |
| 4. Hawkesbury, West, | |

The Towns of—

- | | |
|----------------|-------------------|
| 1. Hawkesbury, | 2. Vankleek Hill, |
|----------------|-------------------|

And the Village of—

- | |
|---------------|
| 1. L'Orignal. |
|---------------|

R.S.O. 1897, c. 3, s. 1 (31).

Prince Edward.

32.—THE COUNTY OF PRINCE EDWARD

Shall consist of the Townships of—

- | | |
|------------------|-----------------------|
| 1. Ameliasburgh, | 5. Marysburgh, North, |
| 2. Athol, | 6. Marysburgh, South, |
| 3. Hallowell, | 7. Sophiasburg, |
| 4. Hillier, | |

The Town of Picton,

And the Villages of—

- | | |
|----------------|----------------|
| 1. Bloomfield, | 2. Wellington. |
|----------------|----------------|

R.S.O. 1897, c. 3, s. 1 (32).

Renfrew.

33.—THE COUNTY OF RENFREW

Shall consist of the Townships of—

- | | |
|-------------------|---------------|
| 1. Admaston, | 7. Bromley, |
| 2. Algona, North, | 8. Brougham, |
| 3. Algona, South, | 9. Brudenell, |
| 4. Alice, | 10. Buchanan, |
| 5. Bagot, | 11. Burns, |
| 6. Blithfield, | 12. Clara, |

- | | |
|------------------|------------------|
| 13. Fraser, | 26. Petawawa, |
| 14. Grattan. | 27. Radcliffe, |
| 15. Griffith, | 28. Raglan, |
| 16. Hagarty, | 29. Richards, |
| 17. Head, | 30. Rolph, |
| 18. Horton, | 31. Ross, |
| 19. Jones, | 32. Sebastopol, |
| 20. Lyndoch, | 33. Sherwood, |
| 21. Maria, | 34. Stafford, |
| 22. Matawatchan, | 35. Westmeath, |
| 23. McKay, | 36. Wilberforce, |
| 24. McNab, | 37. Wylie, |
| 25. Pembroke, | |

The Towns of—

- | | |
|----------------------|-------------|
| 1. Arnprior, | 3. Renfrew, |
| 2. Pembroke, | |
| And the Villages of— | |
| 1. Eganville, | 2. Cobden. |

R.S.O. 1897, c. 3, s. 1 (33).

34.—THE COUNTY OF RUSSELL

Russell.

Shall consist of the Townships of—

- | | |
|---------------|----------------|
| 1. Cambridge, | 3. Cumberland, |
| 2. Clarence, | 4. Russell, |

The Town of Rockland,
And the Village of Casselman.

R.S.O. 1897, c. 3, s. 1 (34).

35.—THE COUNTY OF SIMCOE

Simcoe.

Shall consist of the Townships of—

- | | |
|-----------------------|---------------------|
| 1. Adjala, | 10. Orillia, South, |
| 2. Essa, | 11. Oro, |
| 3. Flos, | 12. Sunnidale, |
| 4. Gwillimbury, West, | 13. Tay, |
| 5. Innisfil, | 14. Tecumseth, |
| 6. Matchedash, | 15. Tiny, |
| 7. Medonte, | 16. Tosorontio, |
| 8. Nottawasaga, | 17. Vespra, |
| 9. Orillia, North, | |

The Towns of—

- | | |
|-----------------|---------------------|
| 1. Alliston, | 5. Orillia, |
| 2. Barrie, | 6. Penetanguishene, |
| 3. Collingwood, | 7. Stayner, |
| 4. Midland, | |

And the Villages of—

- | | |
|---------------|---------------|
| 1. Beeton, | 4. Creemore, |
| 2. Bradford, | 5. Tottenham. |
| 3. Coldwater, | |

R.S.O. 1897, c. 3, s. 1 (35).

36.—THE COUNTY OF STORMONT

Shall consist of the Townships of—

- | | | |
|-----------|---------------------------|----------------|
| Stormont. | 1. Cornwall, | 3. Osnabruck, |
| | 2. Finch, | 4. Roxborough, |
| | The Town of Cornwall, | |
| | And the Village of Finch. | |

R.S.O. 1897, c. 3, s. 1 (36); 6 Edw. VII. c. 71.

Victoria.

37.—THE COUNTY OF VICTORIA

Shall consist of the Townships of—

- | | |
|----------------------|-----------------|
| 1. Bexley, | 8. Laxton, |
| 2. Carden, | 9. Longford, |
| 3. Dalton, | 10. Mariposa, |
| 4. Digby, | 11. Ops, |
| 5. Eldon, | 12. Somerville, |
| 6. Emily, | 13. Verulam, |
| 7. Fenelon, | |
| The Town of Lindsay, | |
| And the Villages of— | |

- | | |
|-------------------|--------------------|
| 1. Bobcaygeon, | 4. Sturgeon Point, |
| 2. Fenelon Falls, | 5. Woodville. |
| 3. Omemee, | |

Waterloo.

R.S.O. 1897, c. 3, s. 1 (37); 62 V. (2), c. 83.

38.—THE COUNTY OF WATERLOO

Shall consist of the Townships of—

- | | |
|----------------------|-----------------|
| 1. North Dumfries, | 4. Wilmot, |
| 2. Waterloo, | 5. Woolwich, |
| 3. Wellesley, | |
| The Towns of— | |
| 1. Berlin, | 4. Preston, |
| 2. Galt, | 5. Waterloo. |
| 3. Hespeler, | |
| And the Villages of— | |
| 1. Ayr, | 3. New Hamburg. |
| 2. Elmira, | |

R.S.O. 1897, c. 3, s. 1 (38).

Welland.

39.—THE COUNTY OF WELLAND

Shall consist of the Townships of—

- | | |
|---------------------------|-------------------|
| 1. Bertie, | 5. Stamford, |
| 2. Crowland, | 6. Thorold, |
| 3. Humberstone, | 7. Wainfleet, |
| 4. Pelham, | 8. Willoughby, |
| The City of Niagara Falls | |
| The Towns of— | |
| 1. Thorold, | 2. Welland, |
| And the Villages of— | |
| 1. Bridgeburg, | 3. Fort Erie, |
| 2. Chippewa, | 4. Port Colborne. |

R.S.O. 1897, c. 3, s. 1 (39); 3 Edw. VII. c. 67.

40.—THE COUNTY OF WELLINGTON

Wellington.

Shall consist of the Townships of—

- | | |
|---------------------|-----------------|
| 1. Arthur, | 7. Maryborough, |
| 2. Eramosa, | 8. Minto, |
| 3. Erin, | 9. Nichol, |
| 4. Garafraxa, West, | 10. Peel, |
| 5. Guelph, | 11. Pilkington, |
| 6. Luther, West, | 12. Puslinch, |
- The City of Guelph,
The Towns of—

- | | |
|------------------|----------------|
| 1. Harriston, | 3. Palmerston, |
| 2. Mount Forest, | |
- And the Villages of—
- | | |
|--------------|------------|
| 1. Arthur, | 4. Elora, |
| 2. Clifford, | 5. Erin, |
| 3. Drayton, | 6. Fergus. |

R.S.O. 1897, c. 3, s. 1 (40).

41.—THE COUNTY OF WENTWORTH

Wentworth.

Shall consist of the Townships of—

- | | |
|--------------|-----------------------|
| 1. Ancaster, | 5. Flamborough, East, |
| 2. Barton, | 6. Flamborough, West, |
| 3. Beverly, | 7. Glanford, |
| 4. Binbrook, | 8. Saltfleet, |
- The City of Hamilton,
The Town of Dundas,

And the Village of Waterdown. R.S.O. 1897, c. 3, s. 1 (41).

42.—THE COUNTY OF YORK.

York.

Shall consist of the Townships of—

- | | |
|------------------------|-----------------|
| 1. Etobicoke, | 6. Markham, |
| 2. Georgina, | 7. Scarborough, |
| 3. Gwillimbury, East, | 8. Vaughan, |
| 4. Gwillimbury, North, | 9. Whitechurch, |
| 5. King, | 10. York, |
- The City of Toronto,
The Towns of—

- | | |
|---------------|-------------------|
| 1. Aurora, | 3. North Toronto, |
| 2. Newmarket, | |
- And the Villages of—
- | | |
|---------------------|----------------|
| 1. Holland Landing, | 5. Sutton, |
| 2. Markham, | 6. Weston, |
| 3. Richmond Hill, | 7. Woodbridge. |
| 4. Stouffville, | |

Subject, however, to the provisions of section 3 of *The* ^{9 Edw. VII.} *Sheriffs' Act*. R.S.O. 1897, c. 3, s. 1 (42); 63 V. c. 68. ^{c. 6.}

43.—THE PROVISIONAL COUNTY OF HALIBURTON

Haliburton.

Shall consist of the Townships of—

- | | |
|---------------|------------------|
| 1. Anson, | 13. Hindon, |
| 2. Bruton, | 14. Lawrence, |
| 3. Cardiff, | 15. Livingstone, |
| 4. Clyde, | 16. Lutterworth, |
| 5. Dudley, | 17. McClintock, |
| 6. Dysart, | 18. Minden, |
| 7. Eyre, | 19. Monmouth, |
| 8. Glamorgan, | 20. Nightingale, |
| 9. Guilford, | 21. Sherborne, |
| 10. Harburn, | 22. Snowdon, |
| 11. Harcourt, | 23. Stanhope. |
| 12. Havelock, | |

9 Edw. VII.,
c. 2.

But for judicial purposes not provided for by *The Haliburton Act*, the said Provisional County shall continue to be united to and form part of the County of Victoria. R.S.O. 1897, c. 3, s. 1 (43).

Algoma.

44.—THE TERRITORIAL DISTRICT OF ALGOMA

Shall consist of the Townships of—

- | | |
|--|-------------------------------|
| 1. Aberdeen, | 25. Esten, |
| 2. Albert, | 26. Fenwick, |
| 3. Anderson, | 27. Fintry, |
| 4. Archibald, | 28. Fisher, |
| 5. Auden, | 29. Fushimi, |
| 6. Awenge, | 30. Galbraith, |
| 7. Aweres, | 31. Gaudette, |
| 8. Bannerman, | 32. Gill, |
| 9. Barker, | 33. Gilmor, |
| 10. Bicknell, | 34. Gladstone, |
| 11. Boyce, | 35. Goldwin, |
| 12. Bridgland, | 36. Gould, |
| 13. Bright and Bright Addi-
tional, | 37. Grasett, |
| 14. Casgrain, | 38. Hanlan, |
| 15. Chesley and Chesley Ad-
ditional, | 39. Haughton, |
| 16. Clavet, | 40. Haviland, |
| 17. Cobden, | 41. Henderson, |
| 18. Curtis, | 42. Herrick, |
| 19. Day, | 43. Hilton, municipality of, |
| 20. Dennis, | 44. Hodgins, |
| 21. Deroche, | 45. Idington, |
| 22. Devitt, | 46. Jarvis, |
| 23. Duncan, | 47. Jocelyn, municipality of, |
| 24. Eilber, | 48. Johnson, |
| | 49. Kars, |
| | 50. Kehoe, |

51. Kincaid,	82. Prince,
52. Kirkwood,	83. Proctor,
53. Kohler,	84. Ritchie,
54. Korah,	85. Rogers,
55. Laidlaw,	86. Rose,
56. Laird,	87. Ryan,
57. Lefroy,	88. Sankey,
58. Lewis,	89. Scarfe,
59. Ley,	90. Shannon,
60. Long,	91. Shedden,
61. Mack,	92. Shields,
62. Macdonald,	93. Shuel,
63. McCoig,	94. Spragge,
64. McCrae,	95. Staunton,
65. McGiverin,	96. St. Joseph, municipal-
66. McGowan,	ity of,
67. McMahon,	97. St. Mary,
68. McMillan,	98. Stoddard,
69. Meredith,	99. Striker,
70. Montgomery,	100. Studholme,
71. Morin,	101. Tarbutt and Tarbutt
72. Mulloy,	Additional,
73. Mulvey,	102. Tarentorus,
74. Neely,	103. Tennyson,
75. Otter,	104. Thessalon River,
76. Palmer,	105. Thompson,
77. Parke,	106. Tilley,
78. Parkinson,	107. Tupper,
79. Patton,	108. Vankoughnet,
80. Pennefather,	109. Victoria.
81. Plummer and Plummer	110. Wells,
Additional,	111. Whitman,

And the Towns of—

- | | |
|----------------------|---------------|
| 1. Blind River, | 4. Steelton, |
| 2. Bruce Mines, | 5. Thessalon, |
| 3. Sault Ste. Marie, | |

Together with all the remaining territory included within the following limits:—

Commencing at a point on the north shore of Lake Huron at the southwest angle of the township of Harrow; thence due north astronomically along the west limit of the township of Harrow to the southeast angle of the township of Salter; thence due west astronomically along the south limit thereof 6 miles, more or less, to the southwest angle of the said township; thence due north astronomically along the west limit thereof 6 miles to the northwest angle of said township; thence due east astronomically along the said north limit 6 miles to the northeast angle thereof: thence

thence due north astronomically along the west limit of the township of Gough and townships numbered 118, 119, and 120, a distance of 24 miles, more or less, to the northwest angle of township numbered 120; thence due east astronomically along the north limit of township numbered 120, 6 miles, more or less, to the southwest angle of township numbered 114; thence due north astronomically along the west limit of townships numbered 114 and 115, 12 miles, more or less, to the northwest angle of township numbered 115: thence continuing due north astronomically along O. L. Surveyor David Beatty's meridian line 12 miles: thence due west astronomically 30 miles, more or less, to the 12th mile post on O. L. Surveyor Niven's meridian line; thence due north astronomically along said meridian line 18 miles, more or less, to the north limit of the Mississaga Forest Reserve; thence due west astronomically along said limit and limit produced 66 miles, more or less to O. L. Surveyor T. B. Speight's meridian line of 1898; thence due north astronomically along said meridian line and its production north 82 miles to O. L. Surveyor Niven's base line; thence due east astronomically along said base line in latitude 48 degrees 27 minutes 54 seconds north to the 72nd mile post on said base line; thence due north astronomically a distance of 226 miles, more or less, to the Albany River; thence westerly up the Albany River to the limit between the districts of Algoma and Thunder Bay, which is a meridian of 85 degrees 20 minutes west longitude; thence due south along said meridian to the International boundary line in Lake Superior between the United States of America and the Dominion of Canada; thence southeasterly and easterly following said International boundary line through Lake Superior and the River St. Mary and Lake Huron to a point in Lake Huron between Drummond Island and Cockburn Island; thence easterly along the northerly limit of the territorial district of Manitoulin to a point due south of the southwest angle of the township of Harrow, and thence due north astronomically to the southwest angle of the Township of Harrow, the place of beginning.

Provisional
Judicial
District of
Algoma.

The Territorial District of Algoma shall form the Provisional Judicial District of Algoma. *New. See R.S.O. 1897, c. 3, s. 1 (44); 62 V. (2), 26, s. 51; 1 Edw. VII. c. 12, s. 2; 4 Edw. VII. c. 67; 6 Edw. VII. c. 62.*

Boundary line
between muni-
cipalities of
Johnson,
etc., and
Plummer
defined.

The westerly boundary of the Huron Copper Bay and Mining Company's location is and has always been since the 25th day of April, 1890, the true and correct boundary line between the Municipalities of Johnson, Tarbutt, and Tarbutt Additional and the Municipality of Plummer Additional. 3 Edw. VII. c. 7, s. 63.

45.—THE TERRITORIAL DISTRICT OF MANI-TOULIN

Manitoulin.

Shall consist of the Townships of—

- | | |
|----------------|------------------|
| 1. Allan, | 10. Gordon, |
| 2. Assiginack, | 11. Howland, |
| 3. Bidwell, | 12. Humboldt, |
| 4. Billings, | 13. Mills, |
| 5. Burpee, | 14. Robinson, |
| 6. Campbell, | 15. Rutherford, |
| 7. Carlyle, | 16. Sandfield, |
| 8. Carnarvon, | 17. Sheguiandah, |
| 9. Dawson, | 18. Tehkumah, |

And the Towns of Gore Bay, Little Current and the Village of Killarney,

And the Islands named:—

- | | |
|------------------|--------------------|
| 1. Barrie, | 10. Heywood, |
| 2. Badgeley, | 11. Lonely, |
| 3. Clapperton, | 12. McGregor, |
| 4. Club, | 13. Philip Edward, |
| 5. Cockburn, | 14. Rabbit, |
| 6. Crescent, | 15. Squaw, |
| 7. Duck Islands, | 16. Strawberry, |
| 8. Fitzwilliam, | 17. Vidal, |
| 9. George, | |

Together with all the remaining territory included within the following limits:—

Commencing at a point on the north shore of Lake Huron at its intersection with the east limit of the township of Humboldt; thence due north astronomically along the said east limit 10 miles, more or less, to the north limit of said township; thence due west astronomically along the north limits of said township, the township of Carlyle and Township No. 10, 23 miles, more or less, to the water's edge of the Georgian Bay or Lake Huron; thence westerly southerly and southwesterly following the middle thread of the water between McGregor Island, LaCloche Indian Reserve and the most northerly point of land jutting out westerly of part of Township No. 10 to a point due south of the southeasterly end of Cloche Island; thence westerly following the middle thread between Heywood Island, Strawberry Island and Great Manitoulin Island at Little Current on the south side, and Cloche Island and Bedford Island on the north side to a point midway between Bedford Island and Great Manitoulin Island; thence still westerly and northwesterly following the middle thread of the water

water between Amedroz Island and Clapperton Island, and north of Clapperton Island, to a point midway between the Great Manitoulin Island and the north shore of Lake Huron; thence westerly following the middle thread of that portion of Lake Huron lying between the north shore of Lake Huron and the Great Manitoulin Island to a point in the International boundary between the Province of Ontario and the United States of America; thence southerly following the said International Boundary to a point south of the Great Duck Island; thence easterly to a point midway between the Great Manitoulin Island and Tobermory Harbor; thence easterly to a point in the Georgian Bay due south from the place of beginning; thence due north astronomically to the place of beginning.

Provisional
Judicial District of
Manitoulin.

The Territorial District of Manitoulin shall form "The Provisional Judicial District of Manitoulin." *New. See R.S.O. 1897, c. 3, s. 1 (45).*

Thunder Bay. 46.—THE TERRITORIAL DISTRICT OF THUNDER BAY

Shall consist of the Townships of—

- | | |
|----------------|-------------------------|
| 1. Ames, | 24. Lyon, |
| 2. Bell, | 25. Marks, |
| 3. Bain, | 26. McGregor, |
| 4. Barlow, | 27. McIntyre, |
| 5. Blake, | 28. McTavish, |
| 6. Booth, | 29. Moss, |
| 7. Byron, | 30. Neebing, |
| 8. Chipman, | 31. Neebing Additional, |
| 9. Conmee, | 32. Nepigon, |
| 10. Crooks, | 33. O'Connor, |
| 11. Dorion, | 34. Oliver, |
| 12. Fernow, | 35. O'Meara, |
| 13. Fraleigh, | 36. Pic, |
| 14. Gillies, | 37. Paipoonge, |
| 15. Goodwin, | 38. Pearson, |
| 16. Gorham, | 39. Pardee, |
| 17. Henderson, | 40. Purdom, |
| 18. Homer, | 41. Raynar, |
| 19. Innes, | 42. Scoble, |
| 20. Klotz, | 43. Selwyn, |
| 21. Ledger, | 44. Sibley, |
| 22. Low, | 45. Strange, |
| 23. Lybster, | 46. Ware, |

And the cities of Fort William and Port Arthur.

Together

Together with the territory lying west of the meridian of eighty-five degrees, twenty minutes west of west longitude and east of a line drawn due north and south through the most easterly point of Hunter's Island.

The Territorial District of Thunder Bay shall form "The Provisional Judicial District of Thunder Bay." *New. See* Provisional Judicial District of Thunder Bay. R.S.O. 1897, c. 3, s. 1 (46); 62 V. (2), c. 14, s. 3; 1 Edw. VII. c. 12, s. 2.

47.—THE TERRITORIAL DISTRICT OF MUSKOKA Muskoka.

Shall consist of the Townships of—

- | | |
|--------------|-----------------|
| 1. Baxter, | 12. Monck, |
| 2. Brunel, | 13. Morrison, |
| 3. Cardwell, | 14. Muskoka, |
| 4. Chaffey, | 15. Oakley, |
| 5. Draper, | 16. Ridout, |
| 6. Franklin, | 17. Ryde, |
| 7. Freeman, | 18. Sinclair, |
| 8. Gibson, | 19. Stephenson, |
| 9. Macaulay, | 20. Stisted, |
| 10. McLean, | 21. Watt, |
| 11. Medora, | 22. Wood, |

And the Towns of—

- | | |
|-----------------|----------------|
| 1. Bracebridge, | 3. Huntsville, |
| 2. Gravenhurst, | |

And the Village of Port Carling.

Together with the islands in the Georgian Bay lying west of the said territory and adjacent thereto, and the islands in the River Severn lying northerly of the middle of the main channel of the River Severn and adjacent to the Townships of Baxter, Wood and Morrison.

The Territorial District of Muskoka shall form "The Provisional Judicial District of Muskoka." Provisional Judicial District of Muskoka. R.S.O. 1897, c. 3, s. 1 (47); 62 V. (2), c. 14, s. 3.

48.—THE TERRITORIAL DISTRICT OF PARRY SOUND Parry Sound.

Shall consist of the Townships of—

- | | |
|-------------|-------------|
| 1. Armour, | 5. Burpee, |
| 2. Bethune, | 6. Burton, |
| 3. Blair, | 7. Carling, |
| 4. Brown, | 8. Chapman, |

- | | |
|----------------|-----------------|
| 9. Christie, | 27. McConkey, |
| 10. Conger, | 28. McDougall, |
| 11. Cowper, | 29. McKellar, |
| 12. Croft, | 30. McKenzie, |
| 13. Ferguson, | 31. McMurrich, |
| 14. Ferrie, | 32. Monteith, |
| 15. Foley, | 33. Mowat, |
| 16. Gurd, | 34. Nipissing, |
| 17. Hagerman, | 35. Patterson, |
| 18. Hardy, | 36. Perry, |
| 19. Harrison, | 37. Pringle, |
| 20. Himsworth, | 38. Proudfoot, |
| 21. Humphry, | 39. Ryerson, |
| 22. Joly, | 40. Shawanaga, |
| 23. Laurier, | 41. Spence, |
| 24. Lount, | 42. Strong, |
| 25. Machar, | 43. Wallbridge, |
| 26. Mills, | 44. Wilson, |

The Towns of—

- | | |
|-----------------|--------------|
| 1. Parry Sound, | 3. Powassan, |
| 2. Kearney, | |

And the Villages of—

- | | |
|------------------|---------------|
| 1. Burk's Falls, | 3. Sundridge, |
| 2. South River, | |

Together with any other territory included within the following description, that is to say:—Commencing at a point where the southerly boundary of the Township of Conger intersects the waters of the Georgian Bay, being the south-west corner of the Township of Conger; thence easterly along the southerly boundary of the Townships of Conger and Humphry to the south-east corner of the Township of Humphry; thence northerly along the easterly boundary of Humphry to the north-east corner of Humphry; thence easterly along the southerly boundaries of the Townships of Monteith, McMurrich, Perry and Bethune to the south-east corner of Bethune; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier to the south boundary of the Township of Himsworth; thence along the south and east boundaries of Himsworth to the north-east corner of Himsworth; thence westerly along the northerly boundary of Himsworth to Lake Nipissing; thence westerly along the main channel of said lake, and along the main channel of French River, and along the southerly boundary of the District of Nipissing to where the westerly boundary of the said District of Nipissing strikes the water's edge of the Georgian

Georgian Bay; thence southeasterly along the easterly shore of the said Georgian Bay to the place of beginning, including Parry Island and the islands opposite to and along the said easterly shore of the Georgian Bay.

The Territorial District of Parry Sound shall form "The Provisional Judicial District of Parry Sound." R.S.O. 1897, c. 3, s. 1 (48); 62 V. (2), c. 14, s. 3; 7 Edw. VII. c. 93.

Provisional
Judicial
District of
Parry Sound.

49.—THE TERRITORIAL DISTRICT OF RAINY RIVER

Rainy River.

Shall consist of the Townships of—

- | | |
|------------------------|--------------------|
| 1. Atwood, | 23. Morley, |
| 2. Aylsworth, | 24. Morson, |
| 3. Barwick, | 25. McCaul, |
| 4. Barwick Additional, | 26. McCrosson, |
| 5. Bennett, | 27. McIrvine, |
| 6. Blue, | 28. Nelles, |
| 7. Burriss, | 29. Pattullo, |
| 8. Carpenter, | 30. Potts, |
| 9. Crozier, | 31. Pratt, |
| 10. Curran, | 32. Ramsay Wright, |
| 11. Dance, | 33. Roddick, |
| 12. Devlin, | 34. Roseberry, |
| 13. Dewart, | 35. Shenston, |
| 14. Dilke, | 36. Sifton, |
| 15. Dobie, | 37. Spohn, |
| 16. Farrington, | 38. Sutherland, |
| 17. Fleming, | 39. Tait, |
| 18. Halkirk, | 40. Tovell, |
| 19. Kingsford, | 41. Watten, |
| 20. Lash, | 42. Woodyatt, |
| 21. Mather, | 43. Worthington, |
| 22. Miscampbell, | |

And the Towns of Fort Frances and Rainy River,

Together with any other territory included within the following limits, that is to say:—

Commencing where the boundary line between the districts of Rainy River and Thunder Bay intersects the International boundary between the Province of Ontario and the United States of America in Seiganagance Lake; thence due north astronomically along the said district boundary to the 48th mile post thereon in latitude 49 degrees 0 minutes 6 seconds north; thence due west astronomically 89 miles, 71 chains, 7 links, more or less, to the 18th mile post on Ontario

Ontario Land Surveyor Alexander Niven's 6th meridian line; thence due north astronomically along said meridian line 6 miles to the 24th mile post thereon; thence due west astronomically 45 miles, more or less, to the east shore of Sabaskong Bay of the Lake of the Woods; thence westerly and southwesterly along the south shore of said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th parallel of latitude; thence due west astronomically 15 miles, more or less, to said International boundary; thence southerly along said International boundary to the mouth of the Rainy River; thence southeasterly and easterly up Rainy River along said International boundary to Rainy Lake; thence easterly southerly and southeasterly following the said International boundary through Rainy Lake and the several lakes, rivers and portages forming the International boundary, to the place of beginning.

Provisional
Judicial
District of
Rainy River.

The Territorial District of Rainy River shall form "The Provisional Judicial District of Rainy River." *New. See* 8 Edw. VII. c. 36.

Nipissing. 50.—THE TERRITORIAL DISTRICT OF NIPISSING

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Airy, | 26. Blain, |
| 2. Anglin, | 27. Blount, |
| 3. Antoine, | 28. Blyth, |
| 4. Armstrong, | 29. Bonis, |
| 5. Askin, | 30. Bond, |
| 6. Auld, | 31. Bonfield, |
| 7. Aurora, | 32. Boston, |
| 8. Badgerow, | 33. Bowman, |
| 9. Ballantyne, | 34. Bowyer, |
| 10. Banks, | 35. Boyd, |
| 11. Barber, | 36. Bower, |
| 12. Barnet, | 37. Brethour, |
| 13. Barr, | 38. Brewster, |
| 14. Barron, | 39. Briggs, |
| 15. Bastedo, | 40. Brigstocke, |
| 16. Beaucage, | 41. Bronson, |
| 17. Beauchamp, | 42. Brower, |
| 18. Beatty, | 43. Bryce, |
| 19. Beresford, | 44. Bucke, |
| 20. Benoit, | 45. Burt, |
| 21. Berry, | 46. Butt, |
| 22. Bertram, | 47. Calvert, |
| 23. Biggar, | 48. Calvin, |
| 24. Bishop, | 49. Caldwell, |
| 25. Blackstock, | 50. Cameron, |

- | | |
|------------------|-------------------|
| 51. Cane, | 101. Finlayson, |
| 52. Canisbay, | 102. Firstbrook, |
| 53. Carr, | 103. Fitzgerald, |
| 54. Carman, | 104. Flavelle, |
| 55. Cassels, | 105. Fox, |
| 56. Casey, | 106. Fraleck, |
| 57. Catharine, | 107. French, |
| 58. Chambers, | 108. Freswick, |
| 59. Chamberlain, | 109. Galna, |
| 60. Charlton, | 110. Gamble, |
| 61. Charters, | 111. Garrow, |
| 62. Chisholm, | 112. Gauthier, |
| 63. Chown, | 113. German, |
| 64. Clancy, | 114. Gibbons, |
| 65. Clergue, | 115. Glackmeyer, |
| 66. Cody, | 116. Gladman, |
| 67. Cole, | 117. Gooderham, |
| 68. Coleman, | 118. Grant, |
| 69. Commanda, | 119. Grigg, |
| 70. Cook, | 120. Gross, |
| 71. Corkill, | 121. Guibord, |
| 72. Corley, | 122. Guthrie, |
| 73. Cotton, | 123. Haentschel, |
| 74. Coulson, | 124. Hammell, |
| 75. Crear, | 125. Hanna, |
| 76. Currie, | 126. Harley, |
| 77. Dack, | 127. Harris, |
| 78. Dana, | 128. Haultain, |
| 79. Dane, | 129. Hearst, |
| 80. Davidson, | 130. Henwood, |
| 81. Deacon, | 131. Hilliard, |
| 82. Devine, | 132. Hislop, |
| 83. Dickens, | 133. Hobbs, |
| 84. Dickson, | 134. Holmes, |
| 85. Donovan, | 135. Howey, |
| 86. Dufferin, | 136. Hugel, |
| 87. Dundonald, | 137. Hudson, |
| 88. Dymond, | 138. Hunter, |
| 89. Eby, | 139. Ingram, |
| 90. Edgar, | 140. James, |
| 91. Eddy, | 141. Keely, |
| 92. Edwards, | 142. Kennedy, |
| 93. Egan, | 143. Kenny, |
| 94. Evanturel, | 144. Kerns, |
| 95. Evelyn, | 145. Kerrs, |
| 96. Falconer, | 146. Kirkpatrick, |
| 97. Farr, | 147. Kittson, |
| 98. Fell, | 148. Klock, |
| 99. Ferris, | 149. Knight, |
| 100. Field, | 150. Knox, |

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|---------------------|-------------------|
| 151. Lamarche, | 202. McLaughlin, |
| 152. Langmuir, | 203. McLeod, |
| 153. Latchford, | 204. McPherson, |
| 154. Lauder, | 205. McVittie, |
| 155. Law, | 206. McWilliams, |
| 156. Lawson, | 207. Newmarket, |
| 157. Lebel, | 208. Nicol, |
| 158. Leckie. | 209. Niven, |
| 159. Leo, | 210. Notman, |
| 160. Leonard, | 211. Olive, |
| 161. Lister, | 212. Olrig, |
| 162. Little, | 213. Osborne, |
| 163. Lockhart, | 214. Osler, |
| 164. Lorrain, | 215. Otto, |
| 165. South Lorrain, | 216. Pacaud, |
| 166. Loudon, | 217. Papineau, |
| 167. Lundy, | 218. Pardo, |
| 168. Lyell, | 219. Paxton, |
| 169. Lyman, | 220. Peck, |
| 170. Macklem, | 221. Pedley, |
| 171. Mann, | 222. Pentland, |
| 172. Maisonville, | 223. Pense, |
| 173. Marathon, | 224. Phelps, |
| 174. Marquis, | 225. Playfair, |
| 175. Marter, | 226. Poitras, |
| 176. Master, | 227. Preston, |
| 177. Mattawan, | 228. Purvis, |
| 178. Matheson, | 229. Pyne, |
| 179. Merrick, | 230. Rankin, |
| 180. Michaud, | 231. Rattray, |
| 181. Milligan, | 232. Ray, |
| 182. Mickle, | 233. Raymond, |
| 183. Milne, | 234. Riddell, |
| 184. Milner, | 235. Rickard, |
| 185. Moody, | 236. Roadhouse, |
| 186. Morel, | 237. Robillard, |
| 187. Mortimer, | 238. Rorke, |
| 188. Mulock, | 239. Sabine, |
| 189. Munro, | 240. Savard, |
| 190. Mulligan, | 241. Sharpe, |
| 191. Murchison, | 242. Sherring, |
| 192. McCallum, | 243. Sisk, |
| 193. McCann, | 244. Sheraton, |
| 194. McCart, | 245. Shillington, |
| 195. McCool, | 246. Smyth, |
| 196. McCraney, | 247. Skead, |
| 197. McElroy, | 248. Speight, |
| 198. McFadden, | 249. Springer, |
| 199. McGarry, | 250. Sproule, |
| 200. McGiffin, | 251. Steele, |
| 201. McLaren, | 252. Stewart, |

253. Stimson,	271. Valin,
254. Stock,	272. Van Hise,
255. Strathcona,	273. Van Nostrand,
256. Strathy,	274. Vogt,
257. Stratton,	275. Walker,
258. Stull,	276. Wallis,
259. Sweatman,	277. Warden,
260. St. John,	278. Wesley,
261. Taylor,	279. Whitson,
262. Teefy,	280. White,
263. Thomas,	281. Willet,
264. Thistle,	282. Widdifield,
265. Timmins,	283. Wilkie,
266. Torrington,	284. Williams North,
267. Trethewey,	285. Willison,
268. Truax,	286. Wilkes,
269. Tudhope,	287. Wyse,
270. Tyrrell,	288. Yates,

And the Towns of—

1. Bonfield,	8. Haileybury,
2. Cache Bay,	9. Latchford,
3. Charlton,	10. Matheson,
4. Cobalt,	11. Mattawan.
5. Cochrane,	12. New Liskeard,
6. Elk Lake,	13. North Bay,
7. Englehart,	14. Sturgeon Falls,

Together with any other territory included within the following limits:—

Commencing at the southeast angle of the township of Falconer, thence due west astronomically along the south limit thereof to the east limit of the township of Martland; thence due north astronomically along the east limits of the townships of Martland, Haddo, Casimir, to the south limit of the township of Dunnet; thence due east astronomically along said limit to the southeast angle of the township of Dunnet; thence north astronomically along the east limits of the townships of Dunnet, Ratter, Henry, Janes and McNish to the north limit of the township of McNish; thence due west astronomically along said limit to the east limit of the township of McCarthy; thence due north astronomically along said limit to the north limit of the township of McCarthy; thence due west astronomically along the north limits of the townships of McCarthy, Mackelcan, Aylmer and Parkin to the east limit of the township of Creelman; thence north astronomically along the east limit of the township of Creelman to the north limit thereof; thence due west astronomically along said north limit to the northwest angle of said township; thence due north astronomically along the line run by O. L. S. Niven

as the former boundary between the districts of Algoma and Nipissing 348 miles, more or less, to the north limit of the Province of Ontario at the shore of James Bay; thence easterly along the said northerly limit to the boundary between Ontario and Quebec; thence along the said boundary between Ontario and Quebec southerly and southeasterly to the northwest angle of the township of Clara; thence southerly and easterly along the westerly and southerly boundaries of the townships of Clara, Maria and Head to the westerly boundary of the township of Rolph; thence southerly along the westerly boundaries of the townships of Rolph, Wylie, McKay and Fraser to the northeast angle of the township of Richards; thence westerly along the northerly boundary of the townships of Richards and Burns to the northwest angle of the said township of Burns; thence southerly along the westerly boundary of Burns to the northeast angle of the township of Jones; thence westerly along the northerly boundary of Jones to the northeast angle of the township of Lyell; thence southerly along the easterly boundary of Lyell to the southeast angle of Lyell; thence westerly along the southerly boundaries of the townships of Lyell and Sabine to the easterly boundary of the township of Clyde; thence northerly along the easterly boundaries of the townships of Clyde and Nightingale to the northeast angle of the township of Nightingale; thence westerly along the northerly boundary of the townships of Nightingale, Lawrence, Livingston and McClintock to the easterly boundary of the township of Sinclair; thence northerly along the easterly boundary of Sinclair to the southerly boundary of the township of Bethune; thence easterly to the southeast corner of Bethune; thence northerly along the easterly boundaries of the townships of Bethune, Proudfoot, Joly and Laurier to the south boundary of the township of Himsworth; thence along the southerly and easterly boundaries of Himsworth to the northeast angle of Himsworth; thence westerly along the northerly boundary of Himsworth to Lake Nipissing; thence westerly along the main channel of said lake and along the main channel of French River to a point midway between islands 23 and 24 in said river; thence due west astronomically to the water's edge of the Indian Reserve Island of Okickendawt; thence northerly, westerly, southerly, southeasterly and westerly following the water's edge of said island to a point due east astronomically from the south limit of the township of Falconer produced; thence due west crossing the north channel of the French River and along the south limit of the township of Latchford to the southeast angle of the township of Falconer, the place of beginning.

Provisional
Judicial
District of
Nipissing.

The Territorial District of Nipissing shall form "The Provisional Judicial District of Nipissing." *New. See* R.S.O. 1897, c. 3, s. 1 (50); 1 Edw. VII. c. 51.

51.—THE TERRITORIAL DISTRICT OF SUDBURY *Sudbury.*

Shall consist of the Townships of—

- | | |
|----------------|-------------------|
| 1. Allen, | 48. Dryden, |
| 2. Appleby, | 49. Dunlop, |
| 3. Aubin, | 50. Dunnet, |
| 4. Awrey, | 51. Duff, |
| 5. Aylmer, | 52. Edwards, |
| 6. Badgerow, | 53. Ermatinger, |
| 7. Baldwin, | 54. Fairbank, |
| 8. Balfour, | 55. Falconbridge, |
| 9. Beardmore, | 56. Fawcett, |
| 10. Beaumont, | 57. Foster, |
| 11. Beck, | 58. Fournier, |
| 12. Bigelow, | 59. Foy, |
| 13. Bigwood, | 60. Gallagher, |
| 14. Blezard, | 61. Gamey, |
| 15. Borden, | 62. Garson, |
| 16. Bowell, | 63. Goschen, |
| 17. Bradburn, | 64. Gough, |
| 18. Broder, | 65. Gowan, |
| 19. Browniug, | 66. Graham, |
| 20. Burwash, | 67. Gurney, |
| 21. Calder, | 68. Haddo, |
| 22. Capreol, | 69. Hagar, |
| 23. Carnegie, | 70. Haggart, |
| 24. Cartier. | 71. Hallam, |
| 25. Cascaden, | 72. Hanmer, |
| 26. Casimir, | 73. Hart, |
| 27. Chapleau, | 74. Harrow, |
| 28. Cherriman, | 75. Harty, |
| 29. Chewett, | 76. Hawley, |
| 30. Cleland, | 77. Hendrie, |
| 31. Clute, | 78. Henry, |
| 32. Cochrane, | 79. Hess, |
| 33. Collins, | 80. Hoskin, |
| 34. Cosby, | 81. Hoyle, |
| 35. Cox, | 82. Huttón, |
| 36. Craig, | 83. Hyman, |
| 37. Crawford, | 84. Jamieson, |
| 38. Creighton, | 85. Janes, |
| 39. Creelman, | 86. Jennings, |
| 40. Dargavel, | 87. Jessop, |
| 41. Davis, | 88. Kelly, |
| 42. D'Arcy, | 89. Kidd, |
| 43. Delamere, | 90. Kingsmill, |
| 44. Denison, | 91. Kitchener, |
| 45. Dill, | 92. Lackner, |
| 46. Dowling, | 93. Laura, |
| 47. Drury, | 94. Leask, |

95. Lennox,	133. Pearce,
96. Levack,	134. Porter,
97. Louise,	135. Prosser,
98. Lorne,	136. Ramsay,
99. Loughrin,	137. Rathbun,
100. Lucas,	138. Ratter,
101. Lumsden,	139. Rayside,
102. Mabee,	140. Reaume,
103. Mahaffy,	141. Reid,
104. Martland,	142. Roberts,
105. Mason,	143. Salter,
106. May,	144. Scadding,
107. Merritt,	145. Scollard,
108. McCarthy,	146. Secord,
109. Macdiarmid,	147. Servos,
110. McGowan,	148. Shakespeare,
111. McGee,	149. Shaw,
112. Mackelcan,	150. Snider,
113. McKim,	151. Strathearn,
114. McKinnon,	152. Street,
115. MacLennan,	153. Sydere,
116. McMurchy,	154. Teetzel,
117. McNamara,	155. Tilton,
118. McNaught,	156. Tisdale,
119. McNish,	157. Torrance,
120. Moncrieff,	158. Totten,
121. Morgan,	159. Trill,
122. Murphy,	160. Tucker,
123. Nairn,	161. Tully,
124. Neelon,	162. Unwin,
125. Nesbitt,	163. Vernon,
126. Nixon,	164. Waldie,
127. Norman,	165. Wark,
128. Ogilvie,	166. Waters,
129. Ottaway,	167. Whitney,
130. Parkin,	168. Williamson,
131. Pattinson,	169. Wisner,
132. Paul,	

And the Towns of Chelmsford, Coppercliff, Massey, Sudbury and Webbwood,

Together with any other territory included within the following limits:—

Commencing at a point on the north shore of Lake Huron at the southwest angle of the township of Harrow; thence due north astronomically along the west limit of the township of Harrow to the southeast angle of the township of Salter; thence due west astronomically along the south limit thereof 6 miles, more or less, to the southwest angle of said township; thence due north astronomically along the west limit

limit thereof 6 miles to the northwest angle of said township; thence due east along the said north limit 6 miles to the northeast angle thereof; thence due north astronomically along the west limit of the township of Gough and townships numbered 118, 119 and 120, a distance of 24 miles, more or less, to the northwest angle of township numbered 120; thence due east astronomically along the north limit of township numbered 120, 6 miles, more or less, to the southwest angle of township numbered 114; thence due north astronomically along the west limit of townships numbered 114 and 115, 12 miles, more or less, to the northwest angle of township numbered 115; thence continuing due north astronomically along O. L. Surveyor David Beatty's meridian line 12 miles; thence due west astronomically 30 miles, more or less, to the 12th mile post on O. L. Surveyor Niven's meridian line; thence due north astronomically along said meridian line 18 miles, more or less, to the north limit of the Mississauga Forest Reserve; thence due west astronomically along said limit and limit produced 65 miles, more or less, to O. L. Surveyor T. B. Speight's meridian line of 1898; thence due north astronomically along said meridian line and its production north 84 miles, more or less, to O. L. Surveyor Niven's base line; thence due east astronomically along said base line in latitude 48 degrees 27 minutes 54 seconds north to the 72 mile post on said base line; thence due north astronomically a distance of 226 miles, more or less, to the Albany River; thence northeasterly down the Albany River to James Bay; thence southeasterly along the shore of James Bay to the western boundary of the district of Nipissing; thence due south astronomically along said boundary to the northwest angle of the township of Creelman; thence due east astronomically along the north limit thereof, 6 miles, to the northeast angle thereof; thence due south astronomically along the east limit of said township 6 miles to the northwest angle of the township of Parkin; thence due east astronomically along the north boundaries of the townships of Parkin, Aylmer, Mackelcan and McCarthy to the northeast angle of the township of McCarthy; thence due south astronomically along the east limit of said township 6 miles, to the northwest angle of the township of McNish; thence due east astronomically along the north limit thereof, 6 miles to the northeast angle thereof; thence due south astronomically along the east limit of the townships of McNish, Janes, Henry, Ratter and Dunnet, a distance of 30 miles, more or less, to the southeast angle of the township of Dunnet; thence due west astronomically along the south limit thereof 60 chains 68 links to the northeast angle of the township of Casimir; thence due south astronomically along the east limits of the townships of Casimir, Haddo, and Martland, 18 miles, more or less, to the

north

north limit of the township of Scollard; thence due east astronomically along the north limit of the said township of Scollard 6 miles, more or less, to the northerly bank of the French River; thence due south astronomically to the main channel of the French River or northern boundary of the district of Parry Sound; thence westerly down stream along the main channel of said river and along the channel which runs north of the more northerly of the two islands on which the town plot of Coponaning has been laid out to the Georgian Bay; thence westerly crossing the most westerly mouth of said river to the north shore of said bay; thence westerly along the north shore of the said bay to its intersection with the east limit of the township of Humboldt; thence due north astronomically along the said east limit 10 miles, more or less, to the north limit of said township; thence due west astronomically along the north limit of said township, township of Carlyle and township numbered 10, 23 miles, more or less, to the water's edge of the Georgian Bay; thence westerly along the water's edge of the Georgian Bay 24 miles, more or less, to the place of beginning and to include also all the islands in Lake Huron and the Georgian Bay of said lake lying between the easterly limit of the township of Humboldt and the western limit of the township of Harrow, not included in the Territorial District of Manitoulin.

Provisional
Judicial
District of
Sudbury.

The Territorial District of Sudbury shall form "The Provisional Judicial District of Sudbury."

Kenora.

52.—THE TERRITORIAL DISTRICT OF KENORA

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Aubrey, | 14. Redditt, |
| 2. Britton, | 15. Revell, |
| 3. Burk, | 16. Rowell, |
| 4. Eton, | 17. Rugby, |
| 5. Hartman, | 18. Sandford, |
| 6. Haycock, | 19. Smellie, |
| 7. Jaffray, | 20. Southworth, |
| 8. Langton, | 21. Temple, |
| 9. Melgund, | 22. Umbach, |
| 10. Melick, | 23. Van Horne, |
| 11. Mutrie, | 24. Wainwright, |
| 12. Pellatt, | 25. Wabigoon, |
| 13. Pettypiece, | 26. Zealand, |

And the Towns of Kenora and Keewatin, together with any other territory included within the following limits, that is to say:—

Commencing at the 48th mile post on the west boundary of the district of Thunder Bay in latitude 49 degrees 0 minutes

minutes 6 seconds north; thence due west astronomically 89 miles 71 chains 7 links, more or less, to the 18th mile post on Ontario Land Surveyor Alexander Niven's 6th meridian line; thence due north astronomically along said meridian line 6 miles to the 24th mile post thereon; thence due west astronomically 45 miles, more or less, to the east shore of Sabascong Bay of Lake of the Woods; thence westerly and southwesterly along the south shore of said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th parallel of latitude; thence due west astronomically 15 miles, more or less, to the International boundary between the Province of Ontario and the United States of America; thence northerly and westerly along said International boundary to the boundary between the Province of Manitoba and the Province of Ontario; thence due north astronomically along said last mentioned boundary to the Winnipeg River or boundary between the Province of Ontario and the District of Keewatin; thence easterly following the division line between the said Province and the said district through the waters of the Winnipeg River, English River, Lac Seul, Root River, Lake St. Joseph, to the westerly limit of the Thunder Bay District; thence due south along said west limit to the place of beginning.

The Territorial District of Kenora shall form "The Provisional Judicial District of Kenora." *New. See 8 Edw. VII. c. 36.* Provisional Judicial District of Kenora.

3. Notwithstanding the express mention herein of certain Towns and Villages as being included in certain Counties and Districts every such County and District shall include any other Town or Village situate within the limits thereof. Express mention of towns or villages as included in any county or district not to exclude others not mentioned. R.S.O. 1897, c. 3, s. 2.

UNITED COUNTIES, ETC.

4.—(1) For municipal, judicial and all purposes not otherwise provided for by law, the following Counties shall continue to form Unions of Counties:— United counties.

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;
3. Northumberland and Durham;
4. Prescott and Russell;

(2) For judicial purposes every City shall, subject as to the City of Toronto to section 3 of *The Sheriffs' Act*, be respectively united to and form part of the County within the limits whereof it is situate; but for municipal purposes such Cities, and all Towns withdrawn from the jurisdiction of the County; shall not form part of the Counties in which they are respectively situate. 9 Edw. VII., c. 6. R.S.O. 1897, c. 3, s. 3.

Names of
united coun-
ties.

5. Each of such Unions of Counties under the name of the United Counties ofand(*naming them*), shall for all purposes (except as before excepted), so long as such Counties remain united, have in common, as if one County, all Courts, offices and institutions established by law, pertaining to Counties. R.S.O. 1897, c. 3, s. 4.

BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND RIVERS.

Limits of
townships
bounded by
certain lakes
and rivers.

6.—(1) Except as provided in subsections 2 and 3, the limits of all the Townships lying on the River St. Lawrence, Lake Ontario, the River Niagara, Lake Erie, the River Detroit, Lake St. Clair, the River St. Clair, Lake Huron, (not including the Georgian Bay), the River St. Mary's and Lake Superior (not including Thunder Bay, Black Bay and Nepigon Bay), shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each Township respectively; and, unless herein otherwise provided, such Townships shall also include all the islands, the whole or the greater part of which are comprised within the said outlines so prolonged. R.S.O. 1897, c. 3, s. 7.

(2) Subsection 1 shall not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of the County of York produced southerly to the International boundary line, but in that part the limits of all townships on either side of the Lake shall extend to a line drawn from the intersection of the east boundary of the County of York produced with the international boundary line, westerly to the old outlet of Burlington Bay.

(3) The township of South Walsingham shall include the whole of Long Point.

Limits of
townships on
the Ottawa.

7. The limits of the Townships lying on the River Ottawa shall in like manner extend to the boundary between the Provinces of Ontario and Quebec. R.S.O. 1897, c. 3, s. 8.

Limits of
townships in
Glengarry.

8. The limits of the Townships in the County of Glengarry shall in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the River St. Lawrence, and, unless herein otherwise provided, shall also include every island, the whole or the greater part of which is comprised within the outlines of such Townships so prolonged. R.S.O. 1897, c. 3, s. 9.

Limits of
townships
on Bay of
Quinte and on
other bays,
lakes and
rivers.

9. The limits of the Townships on the Bay of Quinte, the Georgian Bay, Thunder Bay, Black Bay and Nepigon Bay, the River Trent and its lakes, Lake Simcoe, the River Severn, the River Rideau and its lakes, the River Thames, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, shall in like manner extend to the
middle

middle of such lakes and bays, and to the middle of the main channels of such rivers respectively, and, unless herein otherwise provided, shall also include every island, the whole or the greater part of which is comprised within the outlines of such Townships so prolonged. R.S.O. 1897, c. 3, s. 10.

10. The last preceding four sections shall not extend to any islands or parts of islands which are Townships by themselves, or which have been expressly included in other Townships in the original surveys and plans thereof remaining of record in the office of the Minister of Lands, Forests and Mines or by statute, but the same shall remain Townships or parts of such other Townships respectively. R.S.O. 1897, c. 3, s. 11.

The last four sections not to extend to islands being townships of themselves, etc.

NEW TOWNSHIPS.

11. Subject to the provisions of *The Municipal Act*, the Lieutenant-Governor in Council may by proclamation constitute from a day named therein Townships, and Unions of Townships in those parts of Ontario in which Townships or Unions thereof have not been constituted, and may fix the metes and boundaries thereof. R.S.O. 1897, c. 3, s. 13.

Lieutenant-Governor may constitute townships, counties and unions, etc.

CHANGING NAMES OF TOWNSHIPS.

12.—(1) The Lieutenant-Governor in Council may change the name of any township where no Letters Patent have been issued granting lands therein.

Changing names of townships.

(2) The Order in Council shall forthwith be published in the *Ontario Gazette*. R.S.O. 1897, c. 3, s. 14.

GORES OF LAND.

13. The Lieutenant-Governor in Council may, by proclamation, annex any gore or tract of land not forming part of any Township to any adjacent Township or parts thereof to adjacent Townships. R.S.O. 1897, c. 3, s. 15.

Lieut.-Governor may annex gores to adjacent townships.

14. Where in the application of the provisions of this Act there is doubt as to the Township in which any island or other tract of land or land covered with water lies, the Lieutenant-Governor in Council may by proclamation declare to what Township the same belongs. *New*.

Lieut.-Governor may declare to what township any island belongs.

15. Chapter 3 of the Revised Statutes of Ontario, 1897, Repeal. and all amendments thereto are repealed.

CHAPTER 3.

An Act respecting the Lieutenant-Governor and his Deputies.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Lieutenant-Governor's Act.*"

Powers vested in Lieutenant-Governor.

2. In matters within the jurisdiction of the Legislature of the Province all powers, authorities and functions which, in respect of like matters, were vested in or exercisable by the Governors or Lieutenant-Governors of the several provinces now forming part of the Dominion of Canada, or any of the said provinces, under commissions, instructions or otherwise, at or before the passing of *The British North America Act, 1867*, are, and shall be (so far as this Legislature has power thus to enact), vested in and exercisable by the Lieutenant-Governor or Administrator for the time being of this Province, in the name of His Majesty, or otherwise, as the case may require; subject always to the Royal Prerogative as heretofore. R.S.O. 1897, c. 13, s. 1.

Power to remit sentences.

3. The preceding section shall be deemed to include the power of commuting and remitting sentences for offences against the laws of this Province, or offences over which the legislative authority of this Province extends. R.S.O. 1897, c. 13, s. 2.

Construction of Act.

4. Nothing in this Act contained shall be construed to imply that the Lieutenant-Governor or Administrator has not had heretofore the powers, authorities and functions in the preceding two sections mentioned. R.S.O. 1897, c. 13, s. 3.

Lieutenant Governor to be a corporation sole.

5. The Lieutenant-Governor and his successors shall be a corporation sole; and all bonds, recognizances, and other instruments

instruments by law required to be taken to him in his public capacity shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors, by his or their name of office as such; and the same shall not in any case go to or vest in the personal representatives of the Lieutenant-Governor during whose government the same were so taken. R.S.O. 1897, c. 13, s. 4.

6. The Lieutenant-Governor may, with the advice and consent of the Executive Council, from time to time appoint any person or persons, jointly or severally, to be his Deputy or Deputies for the Province or any part or parts thereof, for the purpose of executing marriage licenses, money warrants and commissions under any Act of the Legislature of Ontario. R.S.O. 1897, c. 13, s. 5.

Power to
appoint
Deputies for
certain
purposes.

7. Chapter 13 of the Revised Statutes of 1897 is repealed. *Repealed.*

CHAPTER 4.

An Act respecting The Executive Council.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Executive Council—
how
composed.

1. The Executive Council shall be composed of such persons as the Lieutenant-Governor from time to time appoints, and all Executive Councillors so appointed shall be Ministers of the Crown, and shall rank among themselves in the order of their appointments respectively.

Ministers
with
portfolio.

2. The Lieutenant-Governor may appoint under the Great Seal from among such Ministers of the Crown the following Ministers to hold office during pleasure: a President of the Council, an Attorney-General, a Secretary and Registrar, a Treasurer, a Minister of Lands, Forests and Mines, a Minister of Agriculture, a Minister of Public Works, a Minister of Education, and such other Ministers as he may see fit; and may by Order-in-Council prescribe their duties and the duties of the several Departments over which they preside, and of the officers and clerks thereof, and all Ministers of the Crown not holding any of the above-mentioned offices shall be styled Ministers without Portfolio.

Ministers
without
portfolio.

Transfer of
duties from
one member
of Council to
another.

3.—(1) Notwithstanding anything contained in *The Legislative Assembly Act* any of the powers and duties which have been heretofore or may be hereafter assigned by law to any Minister of the Crown may from time to time by Order-in-Council be assigned and transferred either for a limited period or otherwise to any other Minister by name or otherwise.

8 Edw. VII.,
c. 5.

Member of
Executive
Council
may act for
another upon
request.

(2) On request made to him by the Minister to whom any duties and powers have been assigned as herein provided, any other Minister may for a period not exceeding one week perform such duties and exercise such powers in place of the Minister making the request and in such case no Order-in-Council shall be required.

(3)

(3) Where any such duties and powers are assigned to a Minister without Portfolio he shall not thereby become ineligible as a member of the Legislative Assembly or to sit or vote therein. Minister without Portfolio may act.

4. No deed or contract in respect of any matter under the control or direction of a Minister shall be binding on His Majesty or be deemed to be the act of such Minister unless the same is signed by him or is approved by the Lieutenant-Governor in Council. Execution of contracts with Crown.

5. *The Act respecting the Executive Council* passed in 8 Edw VII., c. 6; 8 Edw. VII., c. 38, s. 20 the Eighth year of His Majesty's reign, Chaptered 6, and section 20, of *The Statute Law Amendment Act, 1908*, are hereby repealed. repealed.

CHAPTER 5.

An Act respecting the Fees of Certain Public Officers.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short Title. **1.** This Act may be cited as "*The Public Officers Fees Act.*"

Interpretation of "net income." **2.** In this Act "net income" shall mean the excess of all fees and emoluments, including receipts in the current year whether on account of the earnings and salary of such year or of any former year, by an officer by virtue of all his offices, after deducting the disbursements incident to the business of the office or offices held by him. R.S.O. 1897, c. 18, s. 1.

CROWN ATTORNEYS, AND CLERKS OF THE PEACE.

Crown Attorneys and Clerks of the Peace. **3.—(1)** Every Crown Attorney, whether he is or is not Clerk of the Peace, and every Clerk of the Peace, shall be entitled to retain to his own use in each year his net income up to \$2,000.

Percentage payable to the Province. (2) Of the net income of each year over \$2,000 he shall pay to the Provincial Treasurer the following percentages:—

- (a) On the excess over \$2,000, up to \$2,500, ten per cent. thereof;
 - (b) On the excess over \$2,500, up to \$3,000, twenty per cent. thereof;
 - (c) On the excess over \$3,000, up to \$3,500, thirty per cent. thereof;
 - (d) On the excess over \$3,500, fifty per cent. thereof.
- R.S.O. 1897, c. 18, s. 2; 62 V. (2), c. 7, s. 5.

(3)

(3) This section shall not apply to a Crown Attorney or Clerk of the Peace for a Provisional Judicial District.

OFFICERS OF THE HIGH, COUNTY, AND SURROGATE COURTS.

4.—(1) Every Local Registrar of the High Court, Deputy Clerk of the Crown, Clerk of the County Court and Registrar of the Surrogate Court shall be entitled to retain to his own use in each year his net income up to \$2,500.

High Court,
County Court
and Surrogate
Court Fees.

(2) Of the net income of each year over \$2,500 he shall pay to the Provincial Treasurer the following percentages:—

Percentage
payable to
Province.

- (a) On the excess over \$2,500, up to \$3,000, ten per cent. thereof;
- (b) On the excess over \$3,000, up to \$3,500, twenty per cent. thereof;
- (c) On the excess over \$3,500, up to \$5,000, fifty per cent. thereof. R.S.O. 1897, c. 18, s. 3 amended.
- (d) On the excess over \$5,000, ninety per cent. thereof.

DIVISION COURT CLERKS.

5.—(1) Every Division Court Clerk shall be entitled to retain to his own use in each year his net income up to \$2,000.

Fees to be
retained by
Division Court
Clerks for
their own use.

(2) Of the net income in each year he shall pay to the Provincial Treasurer 20 per cent. on the excess over \$2,000.
7 Edw. VII. c. 23, s. 1.

GENERAL PROVISIONS.

6. On or before the 15th day of January in each year every officer affected by this Act shall transmit to the Provincial Treasurer a return under oath of all his fees and emoluments, including his salary, if any, whether received in cash or not, and also the disbursements incident to the business of the office or offices held by him, up to and including the 31st day of December of the next preceding year; and shall with such return transmit such portion of the fees and emoluments received by him during the next preceding year as he is required under this Act to pay to the Treasurer. R.S.O. 1897, c. 18, s. 5.

Returns to be
made to
Provincial
Treasurer.

7. The moneys referred to in the next preceding section when received shall form part of the Consolidated Revenue Fund. R.S.O. 1897, c. 18, s. 6.

Application of
moneys re-
ceived by the
Province.

Lieutenant-Governor may make rules for management of offices, and confer certain powers on inspectors.

8.—(1) The Lieutenant-Governor in Council may make rules and regulations for the management of the offices of such officers, and may, thereby, confer on the inspectors thereof such powers as may be deemed necessary for carrying out the provisions of this and all other Acts relating to the duties of such officers.

(2) Such rules and regulations shall be laid before the Assembly within the first ten days of the Session next after the making thereof. R.S.O. 1897, c. 18, s. 8.

Disbursements to be subject to revision of inspectors.

9. The disbursements of such officers shall be subject to the revision of the inspectors, and for the purposes of such revision an inspector shall have power to take evidence and examine witnesses under oath. R.S.O. 1897, c. 18, s. 9.

Repealed.

10. Chapter 18 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

CHAPTER 6.

An Act to amend The Succession Duty Act, 1909.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Succession Duty Act*, Short title. 1910.

2. Sections 5 and 9, subsection 3 of section 11, subsection ^{9 Edw. VII., c. 12,} 4 of section 12, subsection 1 of section 15, and section 24 of ^{amended.} *The Succession Duty Act, 1909*, are repealed, and the following substituted therefor:

5. Where in respect of any succession in Ontario any estate, legacy or succession duty is payable in any part of the British Dominions other than Ontario, or in a foreign country by the law of that country, in respect of which no allowance of duty is made under section 9, and the Treasurer is satisfied that by reason of such succession any duty is payable there in respect of it, he may allow the amount of that duty to be deducted from the value of the succession in Ontario. ^{Allowance in respect of duty paid elsewhere.}

9. Where the Treasurer is satisfied that in any part of the British Dominions other than Ontario, or in any foreign country to which this section applies, any estate, legacy or succession duty is paid by reason of the succession in Ontario, an allowance for the duty so paid shall be made from the amount payable to this Province with respect to the same property; provided that any such allowance shall be made only as to such part of the British Dominions or as to such foreign country to which the Lieutenant-Governor in Council shall have extended the provisions of this section. Provided also that the Lieutenant-Governor in Council may ^{Provide.} revoke any Order in Council made under this section.

Where no
executor or
administra-
tor account-
able for duty.

11. (3) Every person to whom property passes for any beneficial interest in possession, and also to the extent of the property actually received or disposed of by him, every trustee, guardian, committee, or other person in whom any interest in the property so passing, or the management thereof, is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title, shall be accountable for the duty, and shall within six months after the death of the deceased, or such later time as may be allowed by the Treasurer, make and file with the Registrar of the Surrogate Court of the county or district in which the deceased had a fixed place of abode, or in which the property, or any part thereof, is situate, a statement under oath similar to that required by subsection 1; but this subsection shall not apply to property included in the statement required by subsection 1.

Judge may
direct ap-
praisement
of property
by Sheriff.

12. (4) In lieu of or in addition to evidence of valuation of property the Surrogate Judge may in the first instance or at any time before judgment, and at the request of the Treasurer shall, issue a direction to the Sheriff of the county where any property is situate in respect to which duty is payable, or to some other competent person, to make an appraisement of the property mentioned in the inventory or any part thereof, or of any property wrongfully omitted.

Duties to be
payable with-
in 18 months
from death
of owner.

15. (1) The duty imposed by this Act, unless otherwise herein provided, shall be due at the death of the deceased, and payable within eighteen months thereafter, and if the same, or any part thereof, is paid within that period, no interest shall be charged or collected thereon, but if not so paid, interest at the rate of five per centum per annum from the death of the deceased shall be charged and collected upon the amount remaining from time to time unpaid, and such duty, or so much thereof as remains unpaid, with interest thereon, shall be and remain a lien upon the property in respect of which it is payable until paid. Provided that the duty chargeable upon any legacy given by way of annuity,

Proviso.

whether

whether for life or otherwise, may be paid in four equal consecutive annual instalments, the first of which shall be paid before the falling due of the first year's annuity and each of the three others within the same period in each of the next succeeding three years, and for non-payment when due interest shall be collected from the date of the maturity of each instalment until paid, and if the annuitant dies before the expiration of the four years, payment only of the instalments which became due before his death shall be required.

- (a) The Lieutenant-Governor in Council, upon proof to his satisfaction that payment of the duty within the time limited by this subsection would be unduly onerous, may extend the time for the payment to such date and upon such terms as may be deemed proper.
- (b) For payment before the time provided for in this section the Treasurer may allow to the person accountable for the duty, interest at a rate not exceeding three per centum per annum upon the amount so paid.

24. Except as to the rate of duty payable in respect of estates of persons dying before the commencement hereof, this Act shall be deemed to be and to declare the law relating to succession duty on and since the 1st day of July, 1892, but shall not affect estates in which the duty has been fixed by any Court of competent jurisdiction, and the *Succession Duty Act of 1907* and amendments thereto are hereby repealed.

Declaration
of scope of
Act.

7 Edw. vii, c. 10.

Repeal.

This section shall be deemed to have been enacted on the 13th day of April, 1909.

CHAPTER 7.

An Act to amend the Act respecting the Govern-
ment House Property.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

Rev. Stat.,
c. 27, s. 1,
amended.

1. Section 1 of *The Act respecting the Government House Property* is amended by striking out the following words: "When a perfect title is obtained therefor from the Government of Canada and the same can be sold with profit and advantage and within 5 years," in the 13th, 14th, 15th and 16th lines of the said section.

Secs. 2, 3,
4, 5, 6 and 7
repealed.

2. The remaining sections of the said Act are repealed.

CHAPTER 8.

An Act to Establish Forest Reserves.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Forest Reserves Act.*" Short title.
2. The Lieutenant-Governor in Council may by proclamation set apart any portion of the public domain as a Crown Forest Reserve. 61 V. c. 10, ss. 1, 2. Power to set apart Reserves
3. From and after the date of such proclamation no land within any such Reserve shall be located, sold, leased or otherwise disposed of for purposes of agricultural settlement, and, except under regulations to be made by the Lieutenant-Governor in Council, no person shall use or occupy any such land, prospect for minerals, conduct mining operations, hunt, fish, shoot, trap, spear, or carry or use firearms or explosives within or upon such Reserve. 63 V. c. 12, s. 1. Lands reserved not to be located, sold, etc.
4. —(1) Every Crown Forest Reserve shall be under the control and management of the Minister of Lands, Forests and Mines and the Lieutenant-Governor in Council may make regulations for its protection, care and management. 61 V. c. 10, s. 4. Control and management.
- (2) The regulations shall be published for four consecutive weeks in the *Ontario Gazette* and shall immediately thereafter have the force of law and shall be laid before the Assembly within the first two weeks of the Session next after the making thereof. 61 V. c. 10, s. 5. Publication of regulations.
5. Timber on any portion of a Crown Forest Reserve damaged by fire, or which has attained mature growth, may be Sale of timber after damage by fire on Reserves.

be offered at public sale, subject to such regulations as may be made by the Lieutenant-Governor in Council. 8 Edw. VII. c. 20, s. 2.

Minister may
withdraw
lands for town
site purposes.

6. Whenever it is deemed expedient to establish a town site within the limits of a Crown Forest Reserve the Lieutenant-Governor in Council may withdraw the lands comprised in the description of such proposed town site from such Crown Forest Reserve and thereafter this Act shall no longer apply to such lands. 9 Edw. VII. c. 16, s. 3.

Penalty.

10 Edw. vii, c. 37

7. For a violation of any provision of this Act or of any regulation made thereunder the offender, in addition to any other liability, shall incur a penalty of not more than \$50, recoverable under *The Ontario Summary Convictions Act*, and shall also be liable for all damages resulting from any such violation to be recovered in any court of competent jurisdiction. 61 V. c. 10, s. 6.

Forest
reserves.

8.—(1) The Minister, for the purpose of creating a Crown Forest Reserve, may arrange with any holder of a timber limit which has been cut over and upon which young pine is growing, or which the Minister is satisfied will generally reproduce pine timber, for the surrender of such limit or any part thereof upon such terms and conditions as to the remission of any timber dues or ground rent or any part thereof which may be due or owing to the Crown in respect thereof and upon such other conditions as may be set forth in the report of the Minister and approved by the Lieutenant-Governor in Council, but no payment of money shall be made for any such surrender until an appropriation for that purpose has been made by the Legislature.

Surrender of
cut-over
timber land.

(2) The Order in Council and the report of the Minister shall be laid before the Assembly within the first two weeks of the Session next after the date of the Order in Council. 62 V. (2), c. 11, s. 26.

Repeal

9. Chapter 10 of the Acts passed in the 61st year of Her late Majesty's reign and all amendments thereto except section 1 of the Act passed in the 8th year of His Majesty's reign, Chaptered 20, and section 1 of the Act passed in the 9th year of His Majesty's reign, Chaptered 16, are repealed.

CHAPTER 9.

An Act respecting Town Sites.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where any lot or parcel of land forming part of the Crown lands hereafter sold, leased, located or staked out under any statute of Ontario is laid out as a town site or subdivided into town lots, one quarter in acreage of all the lots or parcels shown on such plan or subdivision shall become the property of and be vested in the Crown.

One-fourth of lots on plan of town site to be vested in Crown.

2. The land to be so vested shall be ascertained as nearly as practicable as follows:—The Minister of Lands, Forests and Mines shall first select one lot or parcel, and the owner shall then select three lots or parcels and so on in turn, the Minister selecting one and the owner three until the division is made.

Selection of lots by Minister and owner.

3. Every such plan or subdivision shall show the selection so made by marking upon each lot or parcel selected by the Minister, the word "Crown," and shall be approved of by the Lieutenant-Governor in Council and signed by the Minister of Lands, Forests and Mines.

Plan to show selection.

4. No such plan or subdivision and no instrument referring thereto, shall be registered in any Registry Office or Land Titles Office, nor shall any person acquire any title to any lot or parcel after such division until the plan or subdivision has been so approved and signed.

Plans not to be registered until approved and signed.

5. The land which becomes vested in the Crown under this Act may be sold, leased or otherwise disposed of in such manner and under such regulations as the Lieutenant-Governor in Council may from time to time prescribe.

Disposing of lots selected by Crown.

Entry of Crown
as owner on
Land Titles
Register.

6. The presentation to the Local Master of Titles for registration of any such plan signed by the Minister of Lands, Forests and Mines shall be a sufficient authority for the said Master to enter His Majesty as owner of the lots marked as selected for the Crown as aforesaid.

CHAPTER 10.

An Act respecting the Clergy Reserves and the
Upper Canada Grammar School Lands.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of
Ontario, enacts as follows:—

1. All moneys derived from the Clergy Reserves and the
Upper Canada Grammar School Lands in Ontario shall be
paid into and form part of the Consolidated Revenue Fund
of Ontario, freed and discharged of and from all trusts
whatsoever, as proceeds from sales of ordinary Crown
Lands.

Proceeds of
Clergy Reserves
and Upper
Canada Gram-
mar School
lands to be paid
into Consoli-
dated Revenue.

CHAPTER 11.

An Act respecting the Public Works of Ontario.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	Warrant for possession, s. 21.
INTERPRETATION, s. 2.	Compensation for land taken, ss. 22-38.
DEPARTMENT AND MINISTER OF PUBLIC WORKS, s. 3.	Interest, s. 39.
Deputy Minister, s. 4.	CLAIMS UNDER CONTRACTS MAY BE REFERRED TO ARBITRATION, s. 40.
Other Officers and Servants, s. 5.	PAYMENT OF COMPENSATION, s. 41.
POWERS AND DUTIES OF MINISTER, ss. 6-12.	LANDS VESTED IN HIS MAJESTY, ss. 42-48.
POWER TO TAKE LAND, ETC. ss. 13-17.	APPLICATION OF ACT TO COMMISSION APPOINTED BY LEGISLATURE, s. 49.
Expropriation, ss. 18, 19.	REPEAL, s. 50.
Agreements and conveyances, s. 20.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title. **1.** This Act may be cited as *The Ontario Public Works Act*.
- Interpretation. **2.** In this Act
- “Conveyance.” (a) “Conveyance” shall include a surrender to the Crown;
- “Department.” (b) “Department” shall mean the Department of Public Works;
- “Judge.” (c) “Judge” shall mean the Judge of the County or District Court of the county or district in which the land or property or any part thereof entered upon, taken or appropriated under the provisions of this Act is situate, or a Judge of the High Court;
- “Land.” (d) “Land” shall include any estate, term, easement, right or interest in, to, over or affecting land;
- “Lease.” (e) “Lease” shall include an agreement for a lease;

(f)

- (f) "Minister" shall mean the Minister of Public Works; ^{"Minister."}
- (g) "Owner" shall include a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested. ^{"Owner."}
- (h) "Public work" or "public works" shall mean and include the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the telegraph lines, Government Railways, canals, locks, drydocks, and all other property belonging to Ontario, and also all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of Ontario, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public moneys are appropriated by the Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only; ^{"Public Work."}
- (i) "Registry office" shall include Land Titles office and shall mean the registry or Land Titles office for the registry division or locality within which the land is situate. ^{"Registry office."}
- (j) "Superintendent" shall mean the superintendent of the public work of which he has, under the Minister, the charge and direction; ^{"Superintendent."}
- (k) "Surrender" shall include a conveyance to His Majesty, or to the Minister, or to any officer of the Department, in trust for or to the use of His Majesty. R.S.O. 1897, c. 37, s. 1. See R.S.C. 1906, c. 143, s. 2. ^{"Surrender."}

3. There shall continue to be a Department of Public Works, over which the Minister of Public Works shall preside. ^{Department and Minister of Public Works.}
R.S.O. 1897, c. 37, s. 2.

4. There shall be a Deputy Minister of Public Works, ^{Deputy Minister,}
who shall be appointed by the Lieutenant-Governor in Council
and

and shall perform such duties as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. *New.*

Other officers
and servants.

5. The Lieutenant-Governor in Council may also appoint an architect, an engineer, a secretary, a law clerk, an accountant, and as many other officers and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department and for the construction, maintenance, use and repair of public works and all property real and personal connected therewith or under its control; and all such officers and servants shall have such powers and perform such duties as may be assigned to them by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1897, c. 37, ss. 3, 4, 6-10.

Powers and
duties of the
Minister.

6.—(1) The Minister shall have the management of the Department, shall oversee and direct the officers and servants thereof and may suspend from duty any officer or servant. R.S.O. 1897, c. 37, s. 5.

Contracts.

(2) The Minister may enter into any contract or agreement that he may deem advisable in carrying out the provisions of this Act: but no contract or agreement shall be binding upon the Crown or be deemed to be the act of the Minister unless signed by him and sealed with the seal of the Department. R.S.O. 1897, c. 37, s. 11.

Tenders to be
invited for
public works.

(3) The Minister shall, by public advertisement, invite tenders for the construction or repair of all public works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it can be more expeditiously or economically executed by the officers and servants of the Department or by day labour. R.S.O. 1897, c. 37, s. 23.

Exception.

Security to be
taken from
contractors.

(4) Where a public work is being carried out by contract, the Minister shall take reasonable care that security be given to and in the name of His Majesty for the due performance of the work within the amount and time specified for its completion and in all cases where the Minister deems it inexpedient to let the work to the lowest bidder, he shall report the same and obtain the authority of the Lieutenant-Governor in Council before passing by a lower tender; but no sum of money shall be paid to a contractor, nor shall any work be commenced on any contract until the contract has been signed by all the parties thereto, nor until the requisite security has been given. R.S.O. 1897, c. 37, s. 24.

Provision
when lowest
tender is not
accepted.

(5) The Minister may require any account sent in by any person employed by the Department to be attested on oath. R.S.O. 1897, c. 37, s. 20.

(6) The Minister may send for and examine on oath all such persons as he may deem necessary touching any matter upon which his action is or may be required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, and every such person shall attend at the summons of the Minister after due notice, and in default shall incur a penalty not exceeding twenty dollars recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 37, s. 21.

Minister may hold enquiry on oath.

10 Edw. VII., c. 37.

(7) The Minister shall submit to the Lieutenant-Governor an annual report of all the works under the control of the Department, showing the state of each work, the amounts expended in respect thereof, and such further information as may be requisite to enable the Assembly to judge of the work of the Department.

Annual report of Minister.

(8) Such report shall be laid before the Assembly within twenty-one days after the commencement of the next Session. R.S.O. 1897, c. 37, s. 22.

7. Where any payment is to be made by the Minister under the authority of this Act it shall be payable out of such moneys as may be appropriated by the Legislature for that purpose, and not otherwise, and the Minister shall not be personally liable therefor, or for any proceedings had or taken by virtue of this Act. R.S.O. 1897, c. 37, s. 37.

Payments under this Act.

8. All public works constructed or completed at the expense of the Province, all land, streams, watercourses and property, real or personal, acquired for the use of public works;

What property, etc., to be under control of Department.

- (a) All canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water;
- (b) All slides, dams, piers, booms and other works for facilitating the transmission of timber;
- (c) All hydraulic powers created by the construction of any public works;
- (d) All roads and bridges, all public buildings, all railways and rolling stock thereon, all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation, all drains and drainage works and all property acquired, constructed

constructed, repaired, equipped, maintained or improved at the expense of the Province, and not under the control of the Government of Canada,

shall unless otherwise provided by law be and remain vested in His Majesty and under the control of the Department. R.S.O. 1897, c. 37, s. 14.

Property not
required may
be sold.

9.—(1) Any property, real or personal, no longer required for the use of any public work, may be sold, leased or disposed of under the authority of the Lieutenant-Governor in Council.

(2) Such property shall be so sold, leased or disposed of by tender or public auction, except that a lease for a term not exceeding five years may be made without tender or public auction. R.S.O. 1897, c. 37, s. 16.

Contracts to
enure to use
of His
Majesty.

10. Contracts respecting any public works or property, real or personal, under the control of the Department, entered into by the Minister, or by any other person duly authorized to enter into the same, shall enure to the benefit of His Majesty, and may be enforced as if entered into with His Majesty under the authority of this Act. R.S.O. 1897, c. 37, s. 17.

Actions for
enforcing con-
tracts, etc.

11. All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of the Attorney-General for Ontario. R.S.O. 1897, c. 37, s. 12.

Possession
may be requir-
ed of maps,
etc., relating
to Public
Works.

12. The Minister may require any person having the possession of any map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to any public work, and not being private property, to deliver the same without delay to the Department. R.S.O. 1897, c. 37, s. 13.

POWER TO TAKE LAND, ETC.

Power to
enter on and
use land.

13. The Minister may himself, or by his engineers, superintendents, agents, workmen, or servants, for any purpose relative to the use, construction, maintenance or repair of a public work, or for obtaining better access thereto and without the consent of the owner:—

(a) Enter into and upon any land to whomsoever be-
longing,

longing, and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary;

- (b) Enter upon, take and use any land, stream, water or watercourse;
- (c) Enter with workmen, carts, carriages and horses, upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom;
- (d) Make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the work during its construction or repair;
- (e) Alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, railway, road, street, or way, or raise or sink the level of the same in order to carry them over or under, on the level of or by the side of the public work, as he thinks proper; but before discontinuing or altering any public road or any portion thereof, he shall substitute another convenient railway or road in lieu thereof; and the land theretofore used for the railway or road, or part of a railway or road so discontinued shall belong to the Crown and may be disposed of as to the Minister may seem proper; and
- (f) Divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric light wire or pole. *See R.S.C. 1906, c. 143, s. 3 and R.S.O. 1897, c. 37, s. 49.*

14. The Minister may for and in the name of His Majesty purchase or acquire and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land which he may deem necessary for

Power to
acquire land.

(a) The public purposes of the Province, or

(b)

(b) The use or purposes of any Department of the Government thereof.

Walls, fence,
etc., to be
restored.

15. Where it is deemed necessary, in the building, maintaining or repairing of a public work, to take down or remove any wall or fence of any owner of land adjoining the public work, or to construct any ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased; and after the same has been so replaced, or when such ditch or drain is completed, the owner shall maintain such wall or fence, ditch or drain to the same extent as he might be by law required to do, if such wall or fence had not been so taken down or removed, or such ditch or drain had always existed. *See R.S.C. 1906, c. 143, s. 4.*

Sidings, water
pipes and
tracks.

16.—(1) Where any gravel, stone, earth, sand or water is taken at a distance from the public work, the Minister may lay down all necessary sidings, water pipes or conduits, or tracks in, over or upon any land intervening between the public work and the land on which such material or water is found, whatever the distance may be; and all the provisions of this Act, except such as relate to the filing of plans and descriptions, shall apply to obtaining the right of way from the public work to the land on which such materials are situate; and such right may be acquired for a term of years, or permanently as the Minister may think proper.

(2) The powers conferred by this section may be exercised, after the public work is constructed, for the purpose of repairing and maintaining the same. *See R.S.C. 1906, c. 143, s. 5.*

Boundaries
and plans to
be established
and made by
surveyors or
engineers.

17.—(1) The Minister may employ an Ontario land surveyor or an engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by His Majesty for a public work.

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer.

(3) Such surveys, boundaries, plans and descriptions made, established or furnished by an engineer shall have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and such boundaries had been established and such monuments planted by an Ontario land surveyor.

(4) Such boundaries shall be held to be the true and unalterable boundaries of such property, if,—

(a) They are so established, and such monuments of iron or stone so planted, after due notice of the intention to establish and plant the same has been given in writing to the proprietors of the land thereby affected; and,

(b) A written description of such boundaries is approved and signed in the presence of two witnesses by such engineer or surveyor on behalf of the Minister and by the person concerned; or, in case of the refusal of any proprietor to approve or to sign such description, such refusal is recorded in such description; and,

(c) Such boundary marks or monuments are planted in the presence of at least one witness who shall sign such description.

(5) It shall not be incumbent on the Minister or those acting for him to have boundaries established with the formalities in this section mentioned, but it may be resorted to whenever the Minister deems it necessary. *See* R.S.C. 1906, c. 143, s. 7.

EXPROPRIATION.

18.—(1) Where the Minister desires to expropriate land under the power conferred by this Act he shall deposit in the proper registry office a plan and description of the land signed by himself or by the deputy Minister or by the secretary of the Department, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, and such land shall thereupon become and be vested in the Crown.

Land taken
to be laid off
by metes and
bounds.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, shall become and be vested in the Crown. *See* R.S.C. 1906, c. 143, s. 8.

(3) In case of any omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect. *See* R.S.C. 1906, c. 143, s. 9.

Correcting
plans and
descriptions.

(4)

Plans and descriptions of land occupied by the Crown.

(4) A plan and description of any land at any time in the occupation or possession of the Crown and used for the purposes of any public work, may be deposited at any time, in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein. *See R.S.C. 1906, c. 143, s. 10.*

Plans and descriptions to be deemed deposited by direction of Minister.

(5) In all cases, when any such plan and description, purporting to be signed by the deputy Minister, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, is so deposited the same shall be deemed to have been deposited by the direction and authority of the Minister, and as indicating that in his judgment the land therein described is necessary for the purposes of the public work; and the plan and description shall not be called in question except by the Minister, or by some person acting for him or for the Crown. *See R.S.C. 1906, c. 143, s. 11.*

When land of Crown is taken.

19. Where land appropriated for a public work is Crown land, under the control of the Government of Ontario, a plan of such land shall be deposited with the Department of Lands, Forests and Mines. *See R.S.C. 1906, c. 143, s. 14.*

AGREEMENTS AND CONVEYANCES.

Contracts by tenants in tail, executors and others.

20.—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, lunatics, idiots, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown; and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under the provisions of this Act. *See R.S.C. 1906, c. 143, s. 15.*

Judge may appoint person to represent person under disability.

(2) Where there is no guardian or other person to represent a person under disability, the Judge may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1 the person under disability. *See R.S.C. 1906, c. 143, s. 16.*

WARRANT FOR POSSESSION.

Judge may issue warrant of possession.

21.—(1) If any resistance or opposition is made by any person

person to the Minister, or to any person acting for him, entering upon and taking possession of the land or exercising any power in respect thereof, the Judge may, on proof of the execution of a conveyance of such land to His Majesty, or agreement therefor, or of the depositing in the proper registry office of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county or district within which such land is situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof, or take such steps as may be necessary to enable him to exercise such power.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof; and shall forthwith make return to the Court of such warrant, and of the manner in which he executed the same. *See R.S.C. 1906, s. 143, s. 21.*

COMPENSATION FOR LAND TAKEN OR INJURED.

22. The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act due compensation for any damages necessarily resulting from the exercise of such powers, beyond any advantage which the owner may derive from the contemplated work; and any claim for such compensation not mutually agreed upon, shall be determined as hereinafter provided.

Compensation to be made to the owner.

23. Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this Act the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

Notice to be given to owner within 60 days from registration of plan.

- (a) If the owner is known and he is a resident of the Province, by serving upon or by mailing by registered post addressed to him at his last known place of abode a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description and stating that every person having any claim to compensation, must file the same in the office of the Minister within six months after such registration, or, in the case of land injuriously affected

fectcd, within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to him, and

- (b) By the publication of a similar notice once a week for at least three weeks in some newspaper having a general circulation in the county or district in which the land affected is situated.
New.

Compensation where land not expropriated.

24. When the Minister has exercised any of the compulsory powers conferred by this Act other than the power to expropriate land, he shall within 60 days after the exercise of such power, give and publish a notice similar to and in the like manner as is provided for in section 23, and the provisions of section 27 as to claims to and for the determination of the compensation shall apply.

Claim for compensation to be made within 6 months of registration of plan.

25. Where the notice provided for by the next two preceding sections has been given, no claim of any kind for compensation in respect of land taken, used or injuriously affected in the exercise of the powers conferred by this Act shall be referred for determination under the provisions of this Act unless the claim and the particulars thereof have been filed with the secretary of the department in the case of land taken within six months after the registration of the plan or in the case of land injuriously affected within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to the claimant.

Power to take whole lot when part only required.

26. If the Minister is of opinion that he can obtain the whole of any lot or parcel of land of which any part may be expropriated by him at a more reasonable price or to greater advantage than by acquiring such part only he may expropriate the whole of such lot or parcel and also a right of way thereto, if the same is separated from the public work, and may afterwards sell and convey the same or any part thereof as he deems expedient.

Notice to determine amount of compensation.

27. The Minister and the owner may agree upon the amount of the compensation, or either party may give notice in writing to the other that he requires the amount of such compensation to be determined by arbitration under the provisions of this Act.

Judge to appoint time and place for determination.

28. Subject to the provisions of section 25, the Judge upon application of the Minister or of the owner, may appoint in writing a time and place at which he will determine the amount of such compensation and may give such directions

directions for the service of the appointment and as to the persons to be served as he shall deem proper.

29. Where the Minister gives notice to the owner either before or after the service of the appointment upon him, that he desires that the compensation shall be determined by the Ontario Railway and Municipal Board instead of by the Judge, the Chairman of the Board shall give the appointment upon the like application and shall have power to give like directions as the Judge might have given under the next preceding section and the proceedings shall thereafter be taken before the Board.

Minister may refer claim to Ontario Railway and Municipal Board.

30. Save as otherwise provided by this Act, the provisions of *The Arbitration Act* shall apply to the proceedings taken under this Act before the Judge.

Proceedings before judge. 9 Edw. VII. c. 35.

31. The provisions of *The Ontario Railway and Municipal Board Act, 1906*, shall apply to proceedings taken before that Board under this Act.

Proceedings before Board. 6 Edw. VII. c. 31.

32.—(1) Where the amount of the claim exceeds \$500, the Minister or the claimant may by leave of the Court of Appeal, appeal to that Court from any determination or order of the Judge or of the Board under this Act as to compensation.

Appeal to Court of Appeal.

(2) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the Court may deem just.

(3) The practice and procedure as to the appeal and incidental thereto shall be the same *mutatis mutandis* as upon an appeal from the County Court.

(4) The decision of the Court of Appeal shall be final.

(5) Section 43 of *The Ontario Railway and Municipal Board Act, 1906*, shall not apply to any appeal under this section.

33. The compensation agreed upon or adjudged for any land or property acquired, taken, or used in or injuriously affected by the exercise of any of the powers conferred by this Act shall stand in the stead of such land or property, and any claim to or encumbrance thereon shall, as respects the Crown, be converted into a claim to or upon such compensation, and shall no longer affect such land or property so acquired, taken or used. See R.S.C. 1906, c. 143, s. 22.

Compensation to stand in stead of land taken or injured.

Right to
abandon land
taken.

34.—(1) Where at any time before the compensation has been actually ascertained or determined, land taken for a public work, or any part thereof, is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the Minister may, by writing under his hand, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the Crown, or that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon

(a) The land declared to be abandoned shall revert in the person from whom it was taken or in those entitled to claim under him, or

(b) In the event of a limited estate or interest therein being retained by the Crown, the land shall so revert subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment, and the damage if any sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation. *See R.S.C. 1906, c. 143, s. 23.*

(3) Where the whole of the land taken is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and the amount of the damages shall be determined in the manner provided by this Act, and if a reference as to compensation is pending shall be determined on such reference.

Payment of
compensation
up to \$100.

35. If the compensation agreed upon or adjudged does not exceed one hundred dollars, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to such compensation as against the person receiving the same. *See R.S.C. 1906, c. 143, s. 24. See R.S.O. 1897, c. 207, s. 15.*

Payment of
compensation
into Court.

36.—(1) In the cases provided for in section 20 the Minister shall, and, in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at 5 per cent. for six months.

Proceedings
after pay-
ment into
Court.

(2) A notice in such form and for such time as the High Court or a Judge thereof may direct shall be published in such newspaper as the Court or Judge may order, stating that the land is purchased, acquired or taken by the Crown under the provisions of this Act, and calling upon all persons entitleds

titled to the land or to any part thereof to file their claims to the compensation or any part thereof, and all such claims shall be adjudicated upon by the Court or Judge, and the Court or Judge shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice and to law appertains.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into Court, the Court or Judge may direct a proportionate part of the interest to be returned to the Minister, and if it is not obtained until after six months have expired the Court or Judge may order the Minister to pay interest for such further period as may be deemed just.

(4) Where unborn issue or an unascertained person or class are interested in the compensation, the Court or Judge may appoint such person as may be deemed proper to represent or act for them, and any order made shall be binding on them.

37. Every person who has any estate or interest in any land or property acquired, taken or used in or injuriously affected by the exercise of any of the powers conferred by this Act, or who represents any such person, shall, upon demand made therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate and interest and of every charge, lien or encumbrance to which the same is subject, and of the claim made by such person in respect of such estate or interest. *See R.S.C. 1906, c. 143, s. 25.*

Particulars of estate to be given on demand.

38. If the injury to any land or property alleged to be injuriously affected by the exercise of any of the powers conferred by this Act may be removed wholly or in part by any alteration in, or addition to, any public work, or by the construction of any additional work, or by the abandonment of any part of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown before an award is made undertakes to make such alteration or addition, or to construct such additional work or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be determined in view of such undertaking, and the Judge or the Board, as the case may be, shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or such part of the land abandoned, or such grant made to him. *See R.S.C. 1906, c. 143, s. 30.*

Reparation by Crown may be ordered.

INTEREST.

39.—(1) Interest at the rate of five per centum per annum may be allowed on the compensation from the time when

Interest on compensation money.

when the land or property was taken, used or injuriously affected; but no person to whom has been tendered a sum equal to or greater than the compensation shall be allowed interest thereon for any time subsequent to the date of the tender.

(2) If the Judge or the Board is of opinion that the delay in determining the compensation is attributable wholly or in part to any person entitled to the compensation or any part of it, or that he has not, upon demand, furnished to the Minister within a reasonable time a true statement of the particulars of his claim, the Judge or the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow the same at such rate less than five per centum per annum as may appear just. *See R.S.C., c. 143, s. 31.*

CLAIM UNDER CONTRACT MAY BE REFERRED TO ARBITRATION.

Claims arising under contracts may be made.

40.—(1) If any person has a claim arising out of, or connected with, the execution or fulfilment, or in respect of deductions made for the non-execution or non-fulfilment of a contract for the execution of any public work entered into with the Minister, either in the name of His Majesty, or in any other manner, the person may give notice in writing of his claim to the Minister, stating the particulars thereof, and how the same has arisen. *R.S.O. 1897, c. 37, s. 62.*

And may be referred by Minister for determination.

(2) The claim may be referred by the Minister to the Board for determination under the provisions of this Act, but no claim shall be referred to or be entertained unless within six months from the date of the completion of the contract or from the date of the last payment made on account thereof full particulars of the claim have been filed with the secretary of the Department. *R.S.O. 1897, c. 37, s. 65.*

When reference not allowed.

(3) No claim shall be so referred where by the terms of the contract the determination of any matters of difference arising out of or connected with the same are to be decided by the Minister or by some person named in the contract. *R.S.O. 1897, c. 37, s. 64.*

PAYMENT OF COMPENSATION OR COSTS.

Payment of compensation and costs.

41. The Treasurer of Ontario may pay to any person, out of any unappropriated moneys forming part of the Consolidated Revenue Fund, any sum to which, under the provisions of this Act, he is entitled as compensation or for costs. *See R.S.C. 1906, c. 143, s. 32.*

LANDS VESTED IN HIS MAJESTY.

42.—(1) All lands, streams, water-courses and property acquired for any public work shall be vested in the Crown and, when not required for the public work, may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council. Land taken to be vested in Crown and may be sold or disposed of.

(2) All hydraulic powers created by the construction of any public work, or by the expenditure of public money thereon, shall be vested in the Crown, and any part not required for the public work may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council. *See R.S.C. 1906, c. 143, s. 34.*

43. The Minister may employ engineers and surveyors to make examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and such engineers and surveyors shall be under the direction of the Department, and shall report to the Minister on the best means of draining or preventing the flooding of the land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. *R.S.O. 1897, c. 37, s. 51.* Power to employ engineers, etc., to examine land for drainage, etc.

44. The Minister shall submit to the Lieutenant-Governor, in his annual report to be laid before the Assembly, a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands, so as to render them available for cultivation, with his recommendation respecting the same. *R.S.O. 1897, c. 37, s. 52.* Report to the Lieutenant-Governor thereon.

45. The Minister may make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works which he may deem necessary or proper to prevent the flooding of, or to carry off the water from, any such land, and to render the same available for cultivation. *R.S.O. 1897, c. 37, s. 53.* Power to make certain contracts.

46.—(1) Where it has been ascertained, on the report of an engineer, that there exists, or is being or has been constructed, across a river, stream or water-course, any mill-dam, embankment or obstruction which impedes, or which, in the opinion of the engineer, will impede the free discharge of the water from such swamp, bog or flooded land, the Minister may stop the construction thereof, or cause the same to be removed, or a slide to be constructed, as in his opinion may be most advisable; and if the owner of such mill-dam, embankment or obstruction, or any other person suffers damage in consequence of the stopping of its construction Power to remove obstructions on report of engineer.

Owners, etc.
to receive
compensation.

struction, or of its removal, or of the construction of any slide under the provisions of this section, he shall be entitled to compensation to be agreed upon or determined under the provisions of this Act, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam, embankment or obstruction; and the compensation shall be paid within six months after the same has been agreed on or determined. R.S.O. 1897, c. 37, s. 54.

Slides to be
under control
of Department,
etc.

(2) Every such slide shall be under the control of the Department; and the Minister, his engineers and agents, shall be entitled to free access to the same at all reasonable times, and for all reasonable purposes, including the regulating of the discharge of water over the slide, and its repair. R.S.O. 1897, c. 37, s. 55.

Expenditure
to be sanctioned
by
Legislature.

47. Nothing in this Act shall give authority to the Minister to incur any expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service demands. R.S.O. 1897, c. 37, s. 57.

Rev. Stat.
1887, c. 36
not to apply
to certain
expenditure.

48. The provisions of *The Ontario Drainage Act* shall not apply to expenditure under sections 43 to 46 upon lands in a provisional judicial district.

Application
of Act to
Commission
appointed by
Legislature.

49. This Act shall apply to public works constructed, operated or maintained by any commission appointed by or under the authority of the Legislature of Ontario and to every such commission; and the like powers and duties as are by this Act imposed or conferred upon the Minister may be exercised and shall be performed by such commission in respect of matters entrusted to it; and in the application of this Act thereto where the word "Minister" or the word "Department" occurs, it shall mean such commission.

Repeal.

50. Chapter 37 of the Revised Statutes and all amendments thereto are repealed.

CHAPTER 12.

An Act respecting Riots near Public Works.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.	SALE OF FORFEITED WEAPONS, s. 11.
INTERPRETATION, s. 2.	RECOVERY OF PENALTIES, s. 12.
LIEUT.-GOVERNOR MAY DECLARE ACT TO BE IN FORCE, s. 3.	MOUNTED POLICE FORCE MAY BE RAISED TO CARRY ACT INTO EFFECT, ss. 13-15.
DELIVERY UP OF WEAPONS WHERE THE ACT IS IN FORCE, ss. 4-7.	EXPENSES OF CARRYING ACT INTO EXECUTION, HOW DEFRAIDED, ss. 16, 17.
PENALTY FOR NON-DELIVERY, s. 8.	REPEAL, s. 18.
SEARCH FOR AND SEIZURE OF WEAPONS, s. 9.	
MONTHLY RETURNS OF WEAPONS DELIVERED UP, s. 10.	

HIS MAJESTY, by and with the advice and consent of Short title.
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Public Works Peace Preservation Act.*"

2. In this Act, "Weapon" shall include any gun or other Interpretation,
firearm, or air-gun, or any part thereof, or any sword, sword "Weapon."
blade, bayonet, pike, pike-head, spear, spear-head, dirk,
dagger, knife, or other instrument intended for cutting or
stabbing, or any metal knuckles, or other deadly or dangerous
weapon, and any instrument or thing intended to be used
as a weapon, and all ammunition which may be used with
or for any weapon. *New. (See R.S.O. c. 146, s. 2 (24).)*

3.—(1) The Lieutenant-Governor in Council may, by Lieut.-Gov-
ernor in
Council may
by proclama-
tion declare
this Act to
be in force
in any lo-
cality in
which Public
Works are
being car-
ried on.
proclamation, declare that on and after a day to be named
therein, this Act shall be in force in any place in Ontario in
which or in the vicinity of which any Public Dominion or
Provincial work, or a canal, railway or other work under-
taken or carried on by an incorporated Company is in pro-
cess of construction, and the same shall take effect accordingly.
R.S.O. 1897, c. 38, s. 2 (1), amended.

And may, in like manner, declare this Act to be no longer in force.

(2) The Lieutenant-Governor in Council may, in like manner, declare this Act to be no longer in force in such place; but this shall not prevent the Lieutenant-Governor in Council from again declaring the same to be in force in such place.

Proclamation not to apply to cities.

(3) No such proclamation shall have effect within the limits of a city. R.S.O. 1897, c. 38, s. 2 (2-3).

(See s. 185 of *The Mining Act of Ontario*.)

Possession of weapons prohibited.

4.—(1) Upon and after the day so named in the proclamation, no person employed in or upon any such work, within the limits specified in the proclamation, shall keep or have in his possession or under his care or control, within such limits, any weapon, under a penalty of not less than \$2 and not more than \$10 for every such weapon found in his possession, unless such person is a Justice of the Peace or a public officer, a soldier, sailor or volunteer in His Majesty's service, on duty, or a constable or other peace officer, or has a certificate of exemption from the operation of this section as hereinafter provided, or has at the time reasonable cause to fear an assault or other injury to his person, family or property. R.S.O. 1897, c. 38, s. 3 (1), *amended*.

Except in certain cases.

Justice may grant certificate of exemption.

(2) If sufficient cause is shown upon oath to the satisfaction of any Justice of the Peace, he may grant to an applicant therefor not under the age of sixteen years, and as to whose discretion and good character he is satisfied by evidence upon oath, a certificate of exemption from the operation of this section for such period not exceeding twelve months, as he deems fit.

Certificate to be evidence.

(3) Such certificate shall be *prima facie* evidence of its contents and of the signature and official character of the person by whom it purports to be granted. R.S.O. 1897, c. 38, s. 3 (2-3).

Weapons to be delivered to a Justice.

5. Before the day so named in the proclamation, every person employed in or upon any such work, who is not exempted under the next preceding section, shall bring and deliver up to a Justice of the Peace or to a Commissioner appointed by the Lieutenant-Governor for the purposes of this Act every weapon in his possession, and shall be entitled to obtain from him a receipt for the same. R.S.O. 1897, c. 38, s. 4.

Weapons to be returned.

6. When this Act ceases to be in force within the place where any weapon has been delivered up and detained in pursuance thereof, or when the owner or person lawfully entitled to such weapon satisfies the Justice or Commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the Justice or Commissioner may deliver up to the owner or person authorized

to

to receive the same, such weapon, on production of the receipt so given for it. R.S.O. 1897, c. 38, s. 5.

7. Every weapon found in the possession of a person so employed after the day so named in the proclamation, and within the limits set forth in the proclamation, may be seized by any Justice, Commissioner, Constable or other peace officer, and thereupon shall be forfeited to the use of His Majesty. R.S.O. 1897, c. 38, s. 6.

Weapons unlawfully kept may be seized and shall be forfeited.

8. If a person, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this Act is at the time in force, any weapon belonging to or in the custody of a person employed on any such work, he shall incur a penalty of not less than \$40 and not more than \$100. R.S.O. 1897, c. 38, s. 7.

Penalty for keeping weapons contrary to this Act in the limits in which Act is in force.

9.—(1) A Justice of the Peace or Commissioner having authority within the place where this Act is at the time in force, upon the oath of a credible witness that he believes that a weapon is in the possession of any person or in any house or place, contrary to the provisions of this Act, may issue his warrant to a constable or peace officer, to search for and seize the same, and he or any person in his aid may search for and seize the same in the possession of any person, or in such house or place.

Search for and seizure of weapon unlawfully kept.

(2) If admission to such house or place cannot otherwise be obtained after demand, the constable or peace officer, and person in his aid, may enter the same by force, by day or by night, and seize such weapon; and unless the person within whose possession or in whose house or place the same is found, within four days next after the seizure, proves to the satisfaction of the Justice or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the provisions of this Act, such weapon shall be forfeited to the use of His Majesty. R.S.O. 1897, c. 38, s. 8.

Forcible entry.

Weapons, etc., seized to be forfeited unless proved to have been lawfully kept.

10. Every Justice or Commissioner shall make to the Provincial Secretary a monthly return of all weapons delivered to or seized by him, and detained under this Act. R.S.O. 1897, c. 38, s. 9.

Justices, etc., to make monthly returns.

11. Weapons forfeited under this Act shall be sold under the direction of the Justice or Commissioner by whom or by whose authority the same were seized, and the proceeds of the sale, after deducting necessary expenses, shall be received by the Justice or Commissioner and paid over by him to the Provincial Treasurer. R.S.O. 1897, c. 38, s. 10.

Weapons forfeited to be sold.

Proceeds how applied.

Recovery of
Penalties,
10 Edw. VII.,
c. 37.

12. The penalties imposed by this Act shall be recoverable under *The Ontario Summary Convictions Act*. New. (See R.S.O. 1897, c. 38, s. 11.)

[As to protection of persons acting under this Act see "The Act to Protect Justices of the Peace and Others from Vexatious Actions," Cap. 88.]

MOUNTED POLICE FORCE.

A Mounted
Police Force
may be raised
and employed
for better carrying this Act
into effect.

13. For the better carrying this Act into effect, the Lieutenant-Governor in Council may cause a body of men not exceeding one hundred, inclusive of officers, and to be called "The Ontario Mounted Police Force," to be raised, mounted, armed and equipped, and to be placed under the command of such officers as the Lieutenant-Governor in Council deems necessary, and may cause such Police Force, or any part thereof to be employed in any place in which this Act is in force, under such Regulations as the Lieutenant-Governor in Council shall from time to time prescribe. R.S.O. 1897, c. 38, s. 12.

Officers of Police Force and others may be appointed Justices of the Peace for certain localities without a property qualification.

14. The Lieutenant-Governor in Council may appoint the chief officers and such of the subordinate officers of the Police Force, and such other persons as he deems necessary, to be Justices of the Peace for the purposes of this Act for any place in which this Act is in force; and such officers and persons may act as Justices of the Peace, although they may not have the qualifications in property required of others or may not reside in the County or District. R.S.O. 1897, c. 38, s. 13.

Mounted Policemen to be Constables and Peace Officers.

15. The men in the Police Force shall be constables and peace officers for the purposes of this Act, for the County or District in which they are employed. R.S.O. 1897, c. 38, s. 14.

EXPENSES.

Expenses of carrying this Act into effect, how defrayed in the case of Provincial Works.

16. The expenses of carrying this Act into effect upon or near a Provincial Public Work shall be paid through the Minister of Public Works out of the moneys appropriated for the work on which the expenses are incurred, and shall be charged as part of the cost of the work; but the sum expended in any one year shall not exceed \$40,000. R.S.O. 1897, c. 38, s. 15, *amended*.

How the expenses defrayed in the case of works carried on by companies.

17. The expenses attending the employment of such Police Force in any place in or in the vicinity whereof a railway, canal or work, undertaken and carried on by an incorporated Company is in course of construction, shall in the first instance be paid out of the Consolidated Revenue Fund, and shall,

shall, on demand, be repaid to the Provincial Treasurer by the incorporated Company, or, if not so repaid, may be recovered from the Company as a debt due to the Crown; and, when recovered, shall form part of the Consolidated Revenue Fund. R.S.O. 1897, c. 38, s. 16.

18. Chapter 38 of the Revised Statutes of Ontario, 1897, ^{Repeal.} and all amendments thereto are hereby repealed.

CHAPTER 13.

An Act respecting The Bureau of Labour.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short Title

1. This Act may be cited as *The Bureau of Labour Act*.

Bureau of Labour established.

2. There shall be attached to the Department of Public Works a bureau, to be styled "The Bureau of Labour." 63 V., c. 14, s. 1.

Secretary and other officers.

3. The Lieutenant-Governor may appoint a Secretary of the said Bureau, and may also appoint such other officers as may be deemed necessary for the proper conduct of the Bureau. 63 V., c. 14, s. 2.

Information and statistics as to employment, wages, etc., to be collected.

4. It shall be the duty of the Bureau to collect, assort, systematize and publish information and statistics relating to employment, wages and hours of labour, co-operation, strikes, lockouts, or other labour difficulties, trades unions, labour organizations, the relations between labour and capital, and other subjects of interest to workingmen throughout Ontario, with such information relating to the commercial, industrial and sanitary condition of workingmen, and the permanent prosperity of the industries of Ontario, as the Bureau may be able to gather. 63 V., c. 14, s. 3.

Repeal.

5. Chapter 14 of the Acts passed in the sixty-third year of Her late Majesty's reign is repealed.

CHAPTER 14.

An Act to amend the Act for the Improvement of
Public Highways.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Section 11 of *The Act for the Improvement of Public Highways*, is amended by adding the following as subsection
2:—

- (2) The county council shall, in respect to said roads, have all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise, upon the local municipality or municipalities which had jurisdiction over said roads before said roads were assumed by such county council, and the said county council may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent as the said local municipality or municipalities might have done if such roads had not been adopted as county roads.

*Powers of
County
Council over
roads
assumed.*

CHAPTER 15.

An Act to amend The Temiskaming and Northern Ontario Railway Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

7 Edw. VII.,
c. 18, s. 3
amended.

1.—(1) In lieu of the allowance of \$3,500 per annum provided for the Chairman of the Temiskaming and Northern Ontario Railway Commission by section 3 of *The Temiskaming and Northern Ontario Railway Act* the Chairman shall receive an honorarium at the rate of \$5,000 per annum.

Commence-
ment of Act.

(2) This section shall take effect as from the first day of May, 1909.

7 Edw. VII.,
c. 18, s. 4,
amended.

2. Section 4 of the said Act, as amended by section 2 of the Act passed in the 9th year of His Majesty's reign, Chaptered 18, is further amended by adding thereto the following section:

Power to
construct
and operate
an extension
of the
railway.

(3) The Commission, subject to the approval and direction of the Lieutenant-Governor in Council, may construct and operate an extension of said line of railway from a point on the main line thereof between mileage 205 near Matheson Station and mileage 228 in the Township of Calvert in a westerly and southwesterly direction to a point on or near the Mattagami River in the vicinity of the Township of Mountjoy in the District of Sudbury, a distance of about forty miles; and subject as aforesaid shall have and may exercise the like powers with respect to the extension authorized by this subsection as it has and may exercise with respect to the railway authorized by subsection 1.

CHAPTER 16.

An Act respecting The Hydro-Electric Power
Commission of Ontario.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. It is declared that section 10 of *The Power Commission Amendment Act, 1909*, conferred upon "The Hydro-Electric Power Commission of Ontario" absolute authority without the consent of the owners or persons interested and without any pre-requisite or preliminary action or proceeding whatsoever, and without any other sanction or authority, to enter upon any lands required for the purpose of constructing, erecting, maintaining and operating thereon the transmission lines and works in connection therewith referred to in said section and to retain possession thereof for such time as the Commission should think proper and under agreement with the owners or persons interested or without their consent and without any pre-requisite or other sanction or authority whatsoever to take and acquire such right, title, privilege, easement, or interest in, over, upon or in respect of or relating to said lands as to the Commission might seem desirable or expedient.

2. Whenever the Commission acts or has acted under the authority conferred by said section 10 compensation shall be made to the owners or persons interested for all damage to said lands necessarily resulting from the exercise of the powers granted to the Commission by said section. Provided always that in fixing such compensation regard shall in all cases be had to the nature and extent of the estate, right, privilege, easement or interest which the Commission decides to take and acquire in, over, upon or in respect of the said lands, and any assessment of damage shall be based thereon. The claimant shall present his claim for damages to the Commission in the manner provided for presentation of claims under Section 40 of *The Ontario Public Works Act*, and the provisions of said Section 40 shall apply in respect of

Powers of entry for construction of line, etc., under 9 Edw. VII., c. 19, s. 10.

Right of owner to compensation.

10 Edw. VII., c. 11.

uch

such claim, and in the event of no agreement being arrived at the amount of such damage may be determined by arbitration under *The Ontario Public Works Act*, in which case the provisions respecting arbitration contained in the said Act shall, *mutatis mutandis*, apply, or should such claimant elect by notice in writing within one month from the entry on and taking possession by the Commission, the amount of such compensation shall be determined in the manner provided by *The Arbitration Act* and subject to the provisions thereof.

9 Edw. VII.,
c. 35.

Payment or
disposition of
compensation.

3. When the Commission has agreed on the purchase price or rental, or the amount of compensation has been determined by arbitration under either of the said Acts, all the provisions of *The Ontario Public Works Act* as to payment or other disposition of the moneys payable in respect of the estate, right, title or interest purchased, leased or taken by the Commission and as to the vesting of such estate, right, easement or interest, and the title thereto, in the Commission shall *mutatis mutandis* apply.

7 Edw. VII.,
c. 19, s. 22
amended.

4. Section 22 of *The Power Commission Act* is amended by substituting for subsection 4 the following subsection:—

Orders and
regulations of
Commission.

(4) The Commission may from time to time make orders and regulations as to the construction, operation, protection, and inspection of the works, plant, machinery, appliances and equipment for transmission and distribution of electrical power by municipal corporations, and railway, power, or transmission companies.

Penalty for
disobedience
to order of
Commission.

(5) Any municipal corporation, company or person neglecting or refusing to obey and carry out the order or direction of the Commission or the member thereof before whom the complaint was heard, or to comply with any order or regulation under the next preceding subsection, in addition to any other liability, shall forfeit to His Majesty for the uses of the Province the sum of \$100 for every day during which such refusal or neglect shall continue. 6 Edw. VII., c. 15, s. 19.

9 Edw. VII.,
c. 19, s. 2
amended.

5. Section 2 of *The Power Commission Amendment Act, 1909*, is amended by adding thereto the following clauses:

City of
Hamilton
and Town of

(f) By adding the Corporations of the City of Hamilton and the Town of Tillsonburg as parties of
the

the second part, and inserting in said schedule the word "Hamilton" in Column 1 and in Columns 2, 5, 6 and 7 opposite that word the figures "1,000," "17.92," "84,384," and "3,620," and the word "Tillsonburg" in Column 1, and in Columns 2, 5, 6, and 7, opposite that word, the figures "500," "83.00," "84,713" and "6,892."

Tillsonburg added as parties to agreement.

- (g) By striking out paragraphs 1 (b), 2 (b), 10, and the last sentence of 11, and substituting therefor respectively:—

Agreement with municipal-ities varied.

- 1.—(b) On June 1st, 1910, or on any earlier date on which the Commission may be prepared to supply the same after one month's notice from the Corporation to supply 1,000 horse power to the Corporation within the limits thereof, ready for distribution, at approximately the voltage set forth in Column 4 of the schedule hereto, and approximately 25 cycles per second.
- 2.—(b) The Corporation of the City of Hamilton shall not be bound to take power exclusively from the Commission, and shall at all times be at liberty to take power from any other source, or generate power, and the power supplied by the Commission may be used by the Corporation of the City of Hamilton for any purpose, except as set forth in paragraph 11 hereof.
- 10.—(a) The Commission shall at least annually adjust and apportion the amounts payable by municipal corporations for such power and such interest, sinking fund, line loss, and cost of operating, maintaining, repairing, renewing and insuring the line and works, "rateably according to the distance from Niagara Falls and amount of power supplied to the Corporation of the City of Hamilton, subject to the provisions of paragraphs 10 (b) and (c)."
- (b) The Municipal Corporation of the City of Hamilton shall be entitled, in respect of the said amounts payable by the said Municipal Corporation, to any reduction that may be due to increase in the quantity of power supplied to the said Municipal Corporation.

(c)

- (c) The said Municipal Corporation shall not be entitled, in respect of said amounts, to any reduction that may be due to increase in the quantity of power supplied by the Commission to any other corporations or parties.
- (d) At any time prior to the 31st December, 1910, the said Municipal Corporation may agree to insert paragraphs 2 (b) and 13 (a) and (b) of the agreement of May 4th, 1908, in this agreement, and thereafter paragraph 10 (b) of this agreement shall be of no effect, and the said Municipal Corporation shall be entitled to all rights and benefits of said agreement of May 4th, 1908, as if originally a party thereto.

No power shall be supplied by any municipal corporation for the purposes of any railway, or for distribution other than by the municipality, without the written consent of the Commission.

- (h) By adding to paragraph 4:

Said meters shall be located by the Commission so as to prevent discrimination in the measurement of the quantity of power supplied to each municipality.

- (i) By striking out paragraph 13 and numbering paragraphs 14 and 15, 13 and 14.

- (j) The variations in the preceding subsections (g), (h) and (i) shall apply to the contract with the Corporation of the City of Hamilton only.

By-laws of
Hamilton and
Tillsonburg
confirmed.

6. By-law numbered 906 of the said Corporation of the City of Hamilton, and by-law numbered 605 of the Town of Tillsonburg, are declared to be sufficient, legal, valid and binding for the purpose thereof, and the contract executed by the said Corporations and the Commission shall be legal, valid and binding on the parties thereto, notwithstanding that the provisions of the first sentence of paragraph 11 have not been fully complied with.

CHAPTER 17.

An Act respecting the Department
of Agriculture.*Assented to 7th March, 1910.*

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of
Ontario, enacts as follows:—

1. This Act may be cited as "*The Department of Agri-* Short title.
culture Act."

2. In this Act

Interpretation.

(a) "Department" shall mean the Department of "Department"
Agriculture.

(b) "Minister" shall mean the Minister of Agri- "Minister."
culture.

3. The Department of the Government of Ontario known Department of
as the Department of Agriculture is continued and shall be Agriculture
presided over by a Member of the Executive Council who continued.
shall be known as the Minister of Agriculture.

4. The Lieutenant-Governor in Council may appoint a Deputy
Deputy Minister of Agriculture and such other officers and Minister.
clerks as he may deem necessary for the proper conduct of
the business of the Department.

5. Subject to the provisions of the *Act respecting the Exe-* Powers of
cutive Council, the Minister shall have the direction and Minister.
control of 10 Edw. vii, c. 4.

(a) The administration of the laws relating to agri-
culture in all its branches;

(b) The collection of statistics and the management
of the Bureau of Industries;

(c) The Ontario Agricultural College;

(d)

- (d) The Ontario Veterinary College;
- (e) Farm Forestry;
- (f) Immigration and colonization;
- (g) Inspection of factories and shops;
- (h) The administration of statutes respecting stationary engineers.

Duties and powers which were possessed by Commissioner of Agriculture.

And shall have and perform such other functions, duties and powers as may be assigned or transferred to him by the Lieutenant-Governor in Council. R.S.O. 1897, c. 42, s. 1.

Expenditure of appropriation.

6. Where an appropriation is made by the Legislature for or in respect of any matter under the management, direction or control of the Department of Agriculture or of the Minister, the same shall be expended by the Minister in accordance with the provisions of the Act regulating the same, or if there are no such provisions, in accordance with the direction of the Lieutenant-Governor in Council. 9 Edw. VII., c. 26, s. 29.

Power to acquire land.

7. When authorized by the Lieutenant-Governor in Council, the Minister may acquire by purchase, lease or otherwise land or buildings for the purposes of the Department.

Annual report by Minister.

8. The Minister in each year shall submit to the Lieutenant-Governor a report of the proceedings of his Department during the next preceding year, and such report shall be laid before the Legislative Assembly forthwith, or, if the Legislature is not at the time in session, then within thirty days after the commencement of the next session thereof.

BUREAU OF INDUSTRIES.

Bureau to be under direction of Minister of Agriculture.

9. There shall be attached to the Department a Bureau, to be styled "The Bureau of Industries," for collecting, tabulating and publishing industrial information for public purposes. R.S.O. 1897, c. 42, s. 2.

Appointment of secretary and other officers.

10. The Lieutenant-Governor in Council may appoint a Secretary of the Bureau, and may also appoint such other officers

officers as may be necessary for the proper conduct of the Bureau. R.S.O. 1897, c. 42, s. 3.

11. It shall be the duty of the Minister to institute inquiries and collect useful facts relating to the agricultural and other industrial interests of Ontario, and to publish the same in such manner as he deems best adapted to promote improvement within Ontario; and to procure and publish early information relating to the supply of grain, bread-stuffs and live stock in the other Provinces of the Dominion, in Great Britain, and in the United States and other foreign countries in which the Province finds a market for its surplus products, and as to the demand therefor; and the Minister shall, on or before the first day of May in each year, cause to be published and distributed for the use of the members of the Assembly, the general report and the tabular abstract for the next preceding year, made by the Secretary to the Minister, as provided by section 13. R.S.O. 1897, c. 42, s. 4.

Useful facts relating to agriculture, etc., to be collected and published.

12. It shall be the duty of the Secretary, under the instructions of the Minister, to conduct all correspondence of the Bureau; to send to the proper officers and persons of whom such service is required the schedules with instructions approved by the Minister, for the collection of facts and information relating to agriculture and other industries in Ontario; to receive, abstract and tabulate the information collected and obtained, and to publish the same from time to time during the growing season; to prepare at the close of each year a general report to the Minister, including a tabular abstract of facts relating to land, trade, government, population and other subjects compiled annually from the departmental records of Ontario and from other available records; and generally to perform all work within the sphere of the Bureau as may be directed by the Minister. R.S.O. 1897, c. 42, s. 5.

Duties of secretary.

13. The Minister, with the approval of the Lieutenant-Governor in Council, may make such arrangements as he deems expedient with the Government of the Dominion for the collection and transmission of information on the agricultural, manufacturing and other interests of Ontario, or for obtaining for the use of Ontario such information as may have been collected by the Department of Agriculture of Canada. R.S.O. 1897, c. 42, s. 6.

Arrangements with Government of Dominion.

14. Each collector and officer employed in collecting data for the Bureau of Industries shall be entitled to receive one copy of the publications and reports of the Bureau. R.S.O. 1897, c. 42, s. 7.

Certain persons entitled to copy of reports.

Officers of cer-
tain societies
and others
to answer all
official com-
munications.
10 Edw. VII.,
c. 19.

15.—(1) The officers of all societies and associations organized under *The Agricultural Societies Act*, and of all municipal councils, school boards, and public institutions, and all public officers of Ontario, shall promptly answer all official communications from the Bureau, shall from time to time collect and tabulate facts according to instructions to be furnished them, shall make diligent efforts to supply correct information on all questions submitted to them, and generally shall act as far as practicable upon the recommendations of the Minister.

(2) Any officer of any such society, association, council, school board or public institution making a false return of information, or refusing or wilfully neglecting to answer any question, or to fill up, tabulate and return any official schedule according to the instructions furnished, and within the prescribed times, or to furnish information relating to the industries of Ontario, when required so to do either by the Minister or by the Secretary of the Bureau, shall for every such offence incur a penalty of \$40. R.S.O. 1897, c. 42, s. 8.

When returns
are not duly
made to
Department
by munic-
ipalities.
3 Edw. vii.
c. 19.

16. In case any of the returns under the preceding sections are not made as required, or in case any of the municipal returns to the Bureau of Industries required under *The Consolidated Municipal Act, 1903*, or amendments thereto are not made, or in case the returns so made are not satisfactory to the Minister, the Minister may direct some competent person to examine the books and records of the office or person designated by statute to report thereon and to make the return required, and the person so directed by the Minister shall, upon the production of his written instructions from the Minister, have full and free access to all the books and records necessary for the making up of such return, and any person refusing to allow the person so directed to have full and free access to such books and records shall for every such offence incur a penalty of \$40. R.S.O. 1897, c. 42, s. 9.

Recovery of
penalties.
10 Edw. VII.,
c. 37.

17. The penalties provided by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Repeal.

18. Chapter 42 of the Revised Statutes of Ontario, 1897, and all amendments thereto are hereby repealed.

CHAPTER 18.

An Act respecting Agricultural Associations.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Agricultural Associations Act.*" 6 Edw. VII. c. 17, s. 1. Short title.

2. In this Act

Interpreta-
tion.

(a) "Association" shall mean any one of the organizations referred to in sections 3 and 21. "Association."

(b) "Minister" shall mean the Minister of Agriculture. 6 Edw. VII. c. 17, s. 2. "Minister."

3.—(1) The following Associations, Societies and Organizations shall be or continue to be bodies corporate under the provisions of this Act:— Certain bodies declared to be corporations.

The Fruit Growers' Association of Ontario.
 The Entomological Society of Ontario.
 The Dairymen's Association of Eastern Ontario.
 The Dairymen's Association of Western Ontario.
 The Western Ontario Poultry Association.
 The Eastern Ontario Poultry Association.
 The Ontario Bee-keepers' Association.
 The Ontario Agricultural and Experimental Union.
 The Dominion Sheep Breeders' Association.
 The Dominion Swine Breeders' Association.
 The Dominion Cattle Breeders' Association.
 The Canadian Horsemen's Association.
 The Ontario Horse Breeders' Association.
 The Ontario Vegetable Growers' Association.
 The Gardeners' and Florists' Association.
 The Ontario Corn Growers' Association.

(2) The name of the Canadian Horse Breeders' Association, incorporated under *The Agricultural and Arts Act*, is hereby changed to that of The Canadian Horsemen's Association. 6 Edw. VII. c. 17, s. 3; 8 Edw. VII. c. 25, s. 2; 9 Edw. VII. c. 26, s. 25.

Membership. 4. The membership of each Association shall consist of annual subscribers and the membership fee shall be fixed by by-law. 6 Edw. VII. c. 17, s. 4.

Constitution and by-laws. 5. Each Association shall have a constitution and by-laws under which the Association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister before the same shall have force or effect. 6 Edw. VII. c. 17, s. 5.

Annual meeting. 6. Each Association shall hold an annual meeting at such time and place as may be determined by by-law. 6 Edw. VII. c. 17, s. 6.

Election of directors. 7. Each Association at its annual meeting shall elect a Board of Directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. 6 Edw. VII. c. 17, s. 7.

Director need not be member of Association. 8. The members may elect as director a person not a member of the Association, but the person so elected must, within ten days, become a member, and he shall be entitled to act as director only after he has become a member of the Association. 6 Edw. VII. c. 17, s. 8.

Statements at annual meeting. 9. At each annual meeting the retiring officers shall present a full report of their proceedings, and of the proceedings of the Association, and a detailed statement of the receipts and expenditure for the previous year, and of the assets and liabilities, duly audited; a copy of the said report, and of each of the said statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each Association that such Association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. 6 Edw. VII. c. 17, s. 9.

President and vice-president. 10.—(1) The directors shall, from among themselves, elect a President and one or more Vice-Presidents.

Secretary, Treasurer. The directors shall, from among themselves or otherwise

wise, elect a Secretary and a Treasurer, or a Secretary-Treasurer. 6 Edw. VII. c. 17, s. 10.

(2) Except as otherwise provided for a majority of the **Quorum**. Directors of the Association shall form a quorum.

11. The directors shall have full power to act for and on behalf of the Association, and all grants of money and other funds of the Association shall be received and expended under their direction, subject to the by-laws and regulations of the Association. 6 Edw. VII. c. 17, s. 11. **Powers of Directors.**

AUDIT OF ACCOUNTS.

12. The Minister may appoint a person who shall audit the accounts of any Association, and such auditor shall present a report of the result of his audit to the officers of the Association and also to the Minister. 6 Edw. VII. c. 17, s. 12. **Auditing of accounts.**

GENERAL PROVISIONS AS TO ELECTIONS.

13. The members of the Association may by by-law provide that only those members who have paid their subscriptions at least one week in advance of the annual meeting shall be qualified to vote at the annual meeting for the election of directors. 6 Edw. VII. c. 17, s. 13. **Right of voting.**

14. Except as otherwise provided, a vacancy occurring by the death or resignation, or failure to qualify as member, of any officer or director may be filled by the remaining officers of the Association; and it shall be the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in the next section. 6 Edw. VII. c. 17, s. 14. **Vacancies in offices.**

15.—(1) In the event of an election of any directors of the Association not being held at the time or place directed by by-law or being for any reason illegal and void, then the persons in office at the time when such officers or directors should have been elected shall continue to be, and shall be deemed to be, the officers of such Association until their successors are legally appointed. **Directors to continue until successors lawfully elected.**

(2) In the event of any such non-election or illegal election, a special meeting of the members of the Association shall,

shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors; and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be and be deemed to be the officers of such Association. 6 Edw. VII. c. 17, s. 15.

MEETING OF DIRECTORS.

Special meeting of directors.

16. A special meeting of the directors of any Association organized under this Act may be called by the president thereof, or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, then by any three members of the Association, of which meeting at least seven days' notice shall be given to each member. 6 Edw. VII. c. 17, s. 16.

SECURITY BY TREASURER.

Security to be given by treasurer.

17.—(1) The Treasurer of every Association before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties, or otherwise, as the Board of Directors may deem necessary, for the faithful performance of his duties, and especially for the duly accounting for and paying over all moneys which may come into his hands.

Duty of board as to security.

(2) It shall be the duty of the board in each and every year to inquire into the sufficiency of the security given by such treasurer and to report thereon; and where the same treasurer for any Association is re-appointed from year to year his re-appointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the Association for the faithful performance of his duties under such re-appointment shall continue valid as against the parties thereto. 6 Edw. VII. c. 17, s. 17.

Personal responsibility when due security not obtained.

(3) If the officers of an Association neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the Association in the possession of the treasurer.

Legislative grant.

18. Each Association shall be entitled to receive from unappropriated moneys in the hands of the Treasurer of Ontario a specified sum to be placed in the estimates and voted by the Legislature for each year on the following conditions:—

- (a) That the number of *bona fide* members is at least fifty;
- (b) That the secretary of the Association shall, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;
- (c) That the general provisions of this Act applying to such Associations have been complied with;
- (d) That none of the funds of the Association, from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the said Association. 6 Edw. VII. c. 17, s. 18.

19. If an Association ceases for twelve consecutive months to do business as required by this Act and by its constitution, by-laws and rules, or if the Minister is satisfied, after an enquiry at which the Association was given due notice to appear, that the business of the Association is not being properly conducted, the Minister may declare the corporate powers of the Association forfeited. 6 Edw. VII. c. 17, s. 19.

Forfeiture of powers for non-user.

WINTER FAIRS.

20. The Ontario Horticultural Exhibition, the Ontario Provincial Winter Fair and the Eastern Ontario Live Stock and Poultry Show shall be corporate bodies under this Act, and the Lieutenant-Governor in Council may provide that the sections of this Act as far as practicable shall apply to these bodies, and may prescribe such constitution, rules and regulations as are deemed necessary. 6 Edw. VII. c. 17, s. 20; 8 Edw. VII. c. 25, s. 1.

Certain shows and exhibitions incorporated.

INCORPORATION OF OTHER ASSOCIATIONS.

21.—(1) Upon the petition of any Association or Society not subject to the provisions of this Act, but formed for the purpose of advancing the interests of any branch of agriculture, being presented to the Lieutenant-Governor in Council, the Lieutenant-Governor may, by Order-in-Council, declare that the sections of this Act shall apply to the Association or Society so petitioning, and thereafter the said sections shall apply to such Association or Society in the same manner and to the same extent as if it had been incorporated under this Act.

Admission of other societies.

(2)

(2) Every such Order-in-Council shall be published in the *Ontario Gazette* for two weeks following the date of its passing. 6 Edw. VII. c. 17, s. 21.

ADVISORY BOARD.

Advisory
board for live
stock.

22.—(1) An Advisory Board for Live Stock may be formed to advise the Minister regarding matters of interest to the live stock industry. The Lieutenant-Governor may by Order-in-Council direct how the Board shall be constituted and may prescribe the duties and powers of the Board.

Allowance for
expenses.

(2) Members of the Advisory Board shall receive an allowance for their time and for their necessary travelling expenses in attending meetings of the Board, or a Committee of the Board. 6 Edw. VII. c. 17, s. 22.

FARMERS' AND WOMEN'S INSTITUTES.

Farmers' and
Women's In-
stitutes.

23.—(1) The formation of Farmers' Institutes and of Women's Institutes for the purpose of disseminating information in regard to agriculture, and of improving domestic life shall be permitted under this Act, and the same shall constitute Associations under this Act.

(2) The Lieutenant-Governor in Council may, upon recommendation of the Minister, make rules and regulations providing for the number and location of the Farmers' Institutes and Women's Institutes, for the general guidance and direction of the same, and fixing the grants and conditions upon which the grants are to be paid. 6 Edw. VII. c. 17, s. 23.

Right of such Institutes to affiliate with a Public Library.
9 Edw. VII. c. 80, s. 16.

Repeal.

24. Chapter 17 of the Acts passed in the 6th year of His Majesty's reign and all amendments thereto are repealed.

CHAPTER 19.

An Act respecting Agricultural Societies.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.	ANNUAL RETURNS TO DEPARTMENT, s. 22.
INTERPRETATION, s. 2.	GRANTS OF PROVINCIAL FUNDS, ss. 23-25.
EXISTING SOCIETIES CONTINUED, s. 3.	HORSE-RACING PROHIBITED, s. 26.
MINISTER TO DECIDE QUESTIONS ARISING UNDER THE ACT, s. 4.	EXHIBITIONS, ss. 27-29.
INSPECTION, s. 5.	APPOINTMENT OF CONSTABLES AT EXHIBITIONS, ss. 30, 31.
ORGANIZATION, ss. 6-8.	PROHIBITION OF CERTAIN SHOWS AND PERFORMANCES, ETC., s. 32.
DIRECTORS, ss. 9-11.	POWERS OF CONSTABLES, s. 33.
OBJECTS OF SOCIETIES, s. 12.	PROVISIONS AS TO ELECTION OF OFFICERS, ss. 34-37.
ANNUAL MEETINGS, ss. 13, 14.	SPECIAL MEETINGS OF DIRECTORS, s. 38.
REPORTS TO BE FILED, s. 15.	SECURITY BY TREASURER, s. 39.
BY-LAWS, s. 16.	MUNICIPAL AID TO SOCIETIES, s. 40.
MEETINGS OF DIRECTORS, s. 17.	REPEAL, s. 41.
SOCIETIES TO BE BODIES CORPORATE, s. 18.	
JOINT OWNERSHIP OF FAIR GROUNDS AND BUILDINGS, s. 19.	
DISSOLUTION OF UNION SOCIETIES, ss. 20, 21.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Agricultural Societies Act*." 6 Edw. VII., c. 16, s. 1. Short title.

2. In this Act—

Interpretation.

(a) "Department" shall mean the Department of Agriculture; Department.

(b) "Minister" shall mean the Minister of Agriculture for the Province of Ontario; Minister.

(c) "Society" or "Societies" shall mean any Agricultural society or societies formed under this Act or *The Agriculture and Arts Act*, or under any former Agriculture and Arts Act. Society.
Rev. Stat.c. 43.

(d)

Superintendent.

(d) "Superintendent" shall mean the Superintendent of Agricultural Societies. 6 Edw. VII. c. 16, s. 2.

Societies Continued.
Rev. Stat. c. 43.

3. All agricultural societies organized under *The Agriculture and Arts Act*, shall be continued except in so far as they may be altered or affected by this Act. 6 Edw. VII. c. 16, s. 3.

Minister to decide questions arising under Act.

4. The Minister may decide all matters of doubt or dispute as to the working or construction of this Act, and his decision shall be final, except that an appeal therefrom may be made to the Lieutenant-Governor in Council. 6 Edw. VII. c. 16, s. 4.

Inspection.

5. The Minister may appoint a person to inspect the books and accounts of any society receiving Government aid under this Act, and may empower such person to summon witnesses and enforce the production of documents before him, and to take evidence upon oath in regard to such inspection; and all officers of any such society, whenever required so to do, shall submit the books and accounts thereof to such inspection, and shall truly to the best of their knowledge answer all questions put to them in relation thereto, or to the funds of such society. 6 Edw. VII. c. 16, s. 5.

Organization.

6.—(1) Subject to the provisions of the following subsections a society may be organized in any section of the Province.

Limitation as to distance from nearest society.

(2) A society shall not be organized within 20 miles of an existing society, organized under this Act, or under *The Agriculture and Arts Act*, or under any former Agriculture and Arts Act, unless the physical or other natural conditions of the adjoining country are such that the formation of such society will not injuriously affect the nearest adjoining society.

Application for permission to organize within 20 miles of another society.

(3) An application for permission to organize a new society at a specified point that is within 20 miles of the headquarters of an existing society, shall be made in writing to the Minister, and shall set forth clearly and fully the facts of the situation, and shall be signed by at least sixty of the persons desirous of forming such society, except in provisional judicial districts or unorganized counties, where the number shall be at least 40.

Arbitration.

(4) Upon receipt of such application the Minister shall instruct the Superintendent to confer with and, if necessary, to call a special meeting of the officers of the existing society whose headquarters are at the point nearest to the point at which it is proposed to form a new society, at which meeting

such

such officers, by resolution, shall declare themselves as being in favour of or opposed to the granting of the application.

(5) Should the resolution be in favour of granting the application, the Lieutenant-Governor in Council may grant permission for the formation of the society.

(6) Where the granting of the application is opposed, the Superintendent shall call upon the existing society and upon the petitioners each to appoint one arbitrator, and the two arbitrators shall appoint a third arbitrator, and the three arbitrators shall consider the granting of the application, and they or a majority of them shall make a recommendation thereon to the Minister.

(7) If either the signers of the petition or the officers of the existing society refuse to appoint an arbitrator, the Minister may grant or refuse the application, as he may deem best.

When Minister may decide.

(8) The parties concerned in all such disputes shall deposit with the Department such moneys as may be required to pay all expenses connected therewith, such payment to be made according to the decision of the arbitrators, or a majority of them. 6 Edw. VII. c. 16, s. 6.

Deposit to cover expenses.

7. The mode of organization shall be as follows:—

Mode of organization.

(a) A declaration, Form 1, shall be signed by persons residing within ten miles of the point designated as the headquarters of the society desiring to organize a society under this Act. The number of such persons shall be at least 60, except in the case of societies organized in provisional judicial districts and unorganized counties, where the number shall be at least 40;

Declaration of membership.

(b) No person shall be considered a member of any society for any year unless he shall have paid at least one dollar into the funds of that society as membership fee for that year;

Qualification of members.

(c) Subject to the by-laws of the society, a firm or an incorporated company may become a member of any society incorporated under this Act by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall as such exercise the privileges of membership in the society;

Firms and companies may be members.

(d)

Transmitting
declaration to
Minister.

- (d) Within one month after the membership fees of the signers thereof have been paid the said declaration, with the names and addresses of the signers, shall be transmitted to the Minister, who shall thereupon authorize a person to call the first meeting for the organization of the society;

First Meeting

- (e) The first meeting of the society shall be held between the 15th and the 21st days inclusive of January next ensuing, at the point designated as the headquarters of the society, of which meeting at least two weeks' public notice shall be given by advertisement in one or more newspapers published in the county or district, and also by printed placards or bills posted in local places of common resort;

Election of
officers.

- (f) At the said first meeting there shall be elected a president, a first vice-president, a second vice-president, and not more than nine other directors, who shall be duly qualified members of the society, or who must become so within 14 days after their election, and who together shall form the board of directors, a majority of which board shall reside within ten miles of the place designated as the headquarters of the society;

- (g) At the said first meeting the society shall appoint two auditors for the ensuing year;

Secretary and
treasurer.

- (h) The board, from among themselves, or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and shall by virtue of his office be a member of each committee appointed, and may be given the powers of managing-director acting under the control and with the approval of the board of directors;

Executive
committee.

- (i) The board, from among themselves, may appoint an executive committee of not more than five members, to perform such duties as the board, by resolution, may specify;

Report of or-
ganization
meeting to be
sent to Depart-
ment.

- (j) A report of the organization meeting, certified by the president, the secretary and the convener, and containing a statement of the number of members and a list of the officers elected and appointed, shall be sent to the Department within one week after the holding of the meeting. 6 Edw. VII. c. 16, s. 7.

8.—(1) Upon the receipt of such report the society so organized shall be deemed an agricultural society, within the meaning of this Act, and shall bear the name designated in the declaration as the headquarters of the society, or such name as may be determined by the members and approved by the Minister.

Society when organized to be deemed an agricultural society.

(2) For the purpose of this Act, the headquarters of any society shall be the place at which the said society held its last annual exhibition, or which it has designated by by-law or resolution, at a meeting duly called for the purpose, as its headquarters or place of holding its exhibition, a certified copy of which by-law or resolution shall be forwarded to the Department, and the said society shall thereafter be designated by the name of the said place, or by such name as may be determined by the members and approved by the Minister. 6 Edw. VII. c. 16, s. 8.

Headquarters of society.

9.—(1) The Minister may authorize the society to elect at its first or at any subsequent meeting not more than six persons as directors, in addition to those hereinbefore provided for.

Directors.

(2) A society may appoint not more than six honorary directors, but such directors shall not have the right to vote or take part in meetings of the board of directors. 6 Edw. VII. c. 16, s. 7, (*ii* and *iii*).

Honorary directors.

10. Upon the recommendation of the Superintendent of Agricultural Societies, the Minister may authorize any society to elect six directors in addition to those already provided for. 9 Edw. VII. c. 23, s. 2.

Election of additional directors.

11. At the said first meeting, and at any subsequent meeting of any society ten members shall form a quorum. 6 Edw. VII. c. 16, s. 7, (*5*).

Quorum.

12.—(1) The object of a society shall be to promote improvement in agriculture, horticulture, arboriculture, domestic industry, manufactures and the useful arts

Objects of societies.

- (a) By awarding premiums for live stock (other than grade breeding males) for agricultural or horticultural implements and machinery, for the production of grain and of all kinds of vegetables, plants, flowers, fruits, home manufactures, and generally for excellence in any agricultural or horticultural production or operation, article of manufacture or work of art;

(b)

(b) By organizing plowing matches, holding seed fairs, spring stallion and bull shows, competitions respecting standing crops, and for the best or best managed farms;

(2) A society which expends any of its funds for any purpose of owning or distributing pure bred registered animals, and seeds and plants of new and of valuable kinds;

(d) By promoting the circulation of agricultural periodicals;

(e) By offering prizes for essays on questions of scientific inquiry relating to agriculture, horticulture, domestic industries, manufactures and the useful arts; and

(f) By taking action to eradicate poisonous and noxious insects and weeds.

Unauthorized
expenditure
to forfeit grant.

(2) A society which expends any of its funds for any purpose inconsistent with those herein mentioned, shall forfeit all claim to participate in the legislative grant. 6 Edw. VII. c. 16, s. 9.

Annual meet-
ings.

13.—(1) The annual meetings of the several societies shall be held between the 15th and the 21st days inclusive of January of each year, at the headquarters of the society and at the hour of one o'clock in the afternoon. At any such meeting only those who have paid their subscription for the ensuing year shall be entitled to vote.

Notice of
meetings.

(2) At least two weeks' previous notice of any such meeting shall be given by advertisement in one or more newspapers published in the municipality or municipalities in which the society is organized, and also by printed placards or bills posted in places of common resort, or by sending such notice by registered post, mailed to the last known post office address of each member of the society in good standing, such notices to be mailed at least one week previous to, and to state the time and the place of the meeting.

When meeting
not held at
appointed
time.

(3) In case a society shall, through any cause, fail to hold its annual meeting at the time appointed, the Minister, on petition of the President and Secretary, may appoint a time for holding the same before the first day of March in the same year, the meeting to be called as for the regular annual meeting, and this meeting shall be taken for all purposes as the annual meeting of the society.

(4)

(4) In the event of the annual meeting not being held as provided for in this Act, or in the event of the number of members on the first day of September in any year being less than the number required for organization, the society shall have no further claim to participate in the legislative grant, and shall be deemed to have been dissolved; but the directors elected at the last properly constituted meeting of the society prior to the said first day of September shall be the trustees of the assets of the society until the same are disposed of by the order of the Minister.

Forfeiture of grant if meeting not held.

(5) Where a society is dissolved or ceases to exist it shall be reorganized only by proceeding under section 7 and in accordance with section 6.

Reorganization

(6) Upon being notified or becoming aware of the dissolution of any society under the provisions of the preceding subsections the Minister may order the directors to deliver over to the Department the assets, if any, remaining after all just debts have been paid. 6 Edw. VII. c. 16, s. 10.

Surplus assets to be delivered to Department on dissolution.

14. In addition to any other business the following business shall be transacted at the annual meeting:—

Business at annual meeting.

(a) The board of directors shall present at such meeting a report of their proceedings for the past calendar year, in which shall be stated the names of all the members of the society, the amount paid by each being set opposite to his name, the amount offered and also the amount awarded in prizes for each kind of live stock, agricultural products, implements, domestic products or other objects respectively, and the number of entries in each class, together with such remarks and suggestions upon the agriculture and horticulture of the district, and the arts and manufactures therein as they are enabled to offer;

Report of directors.

(b) The board of directors shall present a detailed statement of the receipts and expenditures for the preceding year, also a statement of the assets and liabilities of the society at the end of the year, certified to by the auditors;

Statement of receipts and expenditures.

(c) The officers and other directors specified in clause (f) of section 7, qualified as therein provided, shall be elected by the members, and auditors shall be appointed for the ensuing year. 6 Edw. VII. c. 16, s. 11.

Election of officers.

Reports to be
recorded and
filed.

15. The said reports shall, if approved by the meeting, be placed on record in the books of the society, and shall also be sent within one month to the Department, and the Minister may require all such reports to be made out on schedules to be supplied by the Department in such form as he may direct. Failure to comply with these requirements shall be sufficient to forfeit all claim, on the part of the society, to participate in the legislative grant. 6 Edw. VII. c. 16, s. 12.

By-laws and
regulations.

16.—(1) The members of each society may, at an annual meeting or at a special meeting, of which two weeks' previous notice has been given by advertisement in the manner required by subsection 2 of section 13, make, alter and repeal by-laws and regulations for the general management of the society; subject to these by-laws and regulations, the board of directors shall have full power to act for and on behalf of the society, and all grants and other funds of the society shall be received and expended under their direction.

Special
meetings.

(2) On petition of thirty members of any society, the secretary shall call a special meeting for the consideration of such matters as may be set forth in the petition. The meeting shall be advertised in the manner prescribed by subsection 2 of section 13, and the advertisements shall state the nature of the business to be transacted. 6 Edw. VII. c. 16, s. 13.

Meetings of
board of
directors.

17. The first meeting of the board of directors of a society may be held upon the day of the annual meeting, and the subsequent meetings shall be held pursuant to adjournment or be called by written notice given by authority of the president, or, in his absence, of the first vice-president, or in the absence or on the neglect of the president and first vice-president, then on the written request of any three of the directors, at least one week before the day appointed, and at any meeting five shall be a quorum. 6 Edw. VII. c. 16, s. 14.

Societies to be
bodies cor-
porate.

18.—(1) Every society shall be a body corporate, with power to acquire and hold land as a site for fairs and exhibitions and, subject to the approval of a meeting of the society called for the purpose, to sell, mortgage, lease, or otherwise dispose of the same, or any other property held by such society.

Notice of meet-
ings to consider
disposition of
property.

(2) At least two weeks' previous notice of such meeting shall be given by advertisement in one or more newspapers published in the county or district and by printed placard; and at such meeting only those persons shall be entitled to vote who are members for the current year and who were members for the two previous years.

(3).—(a) If the owner of the land selected as a site for Acquiring site, arbitration to fix price. fairs and exhibitions approved of at a meeting of the society called for that purpose, refuses to sell the same or demands therefor a price deemed unreasonable by the board of directors then such owner and such board of directors shall each forthwith appoint an arbitrator, and the arbitrators so chosen shall appoint a third arbitrator, and such arbitrators or a majority of them shall determine the value of such land;

(b) If the directors or the owner of such land neglect Appointment of arbitrators. or refuse to appoint an arbitrator, the Senior Judge of the County or District Court of the county or district in which the land lies may on the application of the party who has so appointed an arbitrator and on notice to the opposite party, appoint an arbitrator on behalf of the party so neglecting or refusing to appoint an arbitrator;

(c) The arbitrators so chosen shall have the power to Powers of Arbitrators. hear and determine all claims or rights of encumbrancers, lessees, tenants or other persons as well as those of the owner of the land required for the purpose of such site upon notice in writing to every such claimant or person;

(d) Upon payment by the directors of the amount determined by a majority of the arbitrators appointed Payment of compensation. as aforesaid, to the owner or other persons entitled thereto, the land may be taken and used for the purposes aforesaid;

(e) Any award for a site for fairs and exhibitions made Award to be title to property. and published under this Act, if there be no conveyance, shall be deemed thereafter to be the title of the society to the land mentioned in it, and shall be a good title thereto against all persons interested in the land in any manner whatever and shall be registered in the proper registry office, on the affidavit of the secretary and treasurer or secretary-treasurer of the directors verifying the same;

(f) The parties concerned in all such disputes shall Expenses of arbitration. pay all the expenses incurred in regard to them, according to the award or decision of the arbitrators or a majority of them.

(4) The provisions of subsection 3 shall be exercised only Consent of Lieutenant-Governor to arbitration proceedings. by consent of the Lieutenant-Governor in Council. 6 Edw. VII. c. 16, s. 15.

Joint owner-
ship of fair
grounds and
buildings.

19. Any township society and town or village municipality that had, prior to the 4th day of March, 1868, jointly purchased and held any lands or buildings for the purpose of agricultural fairs or exhibitions, may continue jointly to hold such lands or buildings, or may sell, mortgage, lease or otherwise dispose of the same, subject to the approval of a meeting of the society as provided in section 18. 6 Edw. VII. c. 16, s. 16.

Dissolution of
union societies.

20. Where two or more municipalities have been united under the provisions of *The Agriculture and Arts Act*, R.S.O. 1897, c. 43, or any former *Agriculture and Arts Act* to form a township society, a dissolution of such union society may be effected in the following manner: a petition requesting a dissolution and the organization of new societies shall be signed by a majority of the members residing in any one of the municipalities and shall be forwarded to the Minister, and if the number so signing is equal to the number required for the organization of a new society as provided by section 7, the Minister shall direct that new societies shall be organized in the manner prescribed in that section, and the former union society shall thereupon become dissolved and cease to exist. 6 Edw. VII. c. 16, s. 17.

Disposition of
assets on disso-
lution.

21. On the dissolution of a union society the assets of the said society shall be equitably apportioned or divided by arbitrators, or a majority of them, one to be appointed by the board of directors of each of the new societies, and another arbitrator to be chosen by the arbitrators so appointed, or in the event of the said arbitrators failing to choose such arbitrator within ten days after being appointed, then the Senior Judge of the County or District Court having jurisdiction in the county or district shall appoint such arbitrator. 6 Edw. VII. c. 16, s. 18.

Annual returns
to department.

22.—(1) On or before the first day of March of each year, the officers of every society shall send to the Department an affidavit, Form 2, stating on forms to be provided by the Department, the exact financial transactions of the society during the previous year. This statement shall set forth plainly the number of members of the society in good standing, the amount of moneys paid in prizes for horses, cattle, sheep, swine, poultry, articles of domestic manufacture, other products of the farm, orchard and garden and for such other purposes as are set forth in section 12, and such moneys shall be considered to have been expended for agricultural purposes.

(2) In the case of societies holding a spring stallion show, a spring bull show, a combined spring stallion and bull show, or a spring seed fair, the officers of such societies shall send

to the Department on a separate form to be provided by the Department, within thirty days after the holding of such spring show or fair, an itemized statement showing the receipts and expenditures in connection therewith, together with the number of entries.

(3) Any society failing to send in the statement within the prescribed time shall forfeit all claim to share in the legislative grant for the current year. 6 Edw. VII. c. 16, s. 19. Failure to send in returns.

23. Every society shall be entitled to receive a grant out of the unappropriated moneys in the hands of the Treasurer of the Province, to be paid on the recommendation of the Department, and upon the following conditions:— Grants of Provincial funds.

- (a) That the number of paid-up members for the current year is not less than sixty, except in the case of societies organized in provisional judicial districts or unorganized counties, where the number of paid-up members must not be less than forty;
- (b) That all reports and returns required by this Act have been made to the satisfaction of the Minister;
- (c) That the annual meeting has been held as required and officers elected, in accordance with section 14;
- (d) That the objects of the society as prescribed by section 12, have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with these objects. 6 Edw. VII. c. 16, s. 20.

24. Such amounts as may be voted by the Legislature of Ontario shall be paid to the societies on the following basis. Division of Provincial grant.
8 Edw. VII. c. 26, s. 2 (1).

- (a) A society that has owned and maintained pure bred stock, for the benefit of its members, for a period of at least nine months during the next preceding year, shall receive a grant of \$50 for every registered stallion, \$20 for every registered bull, \$10 for every registered boar and \$5 for every registered ram so owned. In the event of a society devoting its funds solely for the maintenance of pure bred stock, such society shall receive a special membership grant of one dollar for every member of the society in good standing, up to fifty;

(b) A newly organized society, during the first three years of its existence, shall receive a grant each year equal to one dollar per member up to 300 members. 6 Edw. VII. c. 16, s. 21 (d); 9 Edw. VII. c. 23, s. 3.

(c) The remainder of the grant voted for Agricultural Societies shall be divided among the societies other than new societies, in proportion to the amount they expended during the next preceding three years, for agricultural purposes, as shown by their sworn statements, and as defined by section 22, and there shall not be included in such expenditure moneys used for the purchase or maintenance of pure bred stock, for the holding of spring stallion shows, spring bull shows, or combined spring stallion and bull shows or for spring seed fairs.

(i) Societies in provisional judicial districts and unorganized counties shall be entitled to receive their grants on the basis of double their actual expenditure for agricultural purposes. 6 Edw. VII. c. 16, s. 21 (e); 8 Edw. VII. c. 26, s. 2 (2).

(d) A society shall not be entitled to receive a total grant exceeding \$800;

(e) A society that holds a spring stallion show, a spring bull show, or a combined spring stallion and bull show shall receive a grant not exceeding \$50, equal to one-half the sum expended in the holding of such show.

(f) A society that holds a spring seed fair shall receive a grant not exceeding twenty-five dollars, equal to one-half the sum expended in the holding of such fair. 9 Edw. VII. c. 16, s. 21 (a-c).

(g) Should it be found, within one year after the receipt by the Department of a society's annual statement, that an officer of the society has wilfully made false returns with an intention to deceive, such officer shall incur a penalty not exceeding \$100, recoverable under *The Ontario Summary Convictions Act*, or be liable to imprisonment for a period not exceeding thirty days. 6 Edw. VII. c. 16, s. 21.

10 Edw. VII.
c. 37.

Special aid
from Province
to certain
exhibitions.

25. Out of any unappropriated moneys in the hands of the Treasurer of the Province, a further sum not exceeding \$5,000 shall be subject to division among The Industrial Exhibition

hibition Association of Toronto; The Central Canada Exhibition Association of Ottawa, and The Western Fair Association of London, in proportion to the amount of moneys expended for agricultural purposes as set forth in section 12, provided that not more than \$2,500 be paid to any one society, upon the following conditions:

(a) That returns similar to those prescribed by sections 14 and 22 have been made to the Minister;

(b) That the provisions of section 32 have been strictly adhered to or enforced in connection with the exhibition held by the society in the last preceding year. 6 Edw. VII. c. 16, s. 37.

26.—(1) Horse-racing other than trials of speed under the control and regulation of the officers of the society shall not be carried on during the days appointed for holding any exhibition by any society, at the place of holding the exhibition or within five miles thereof. Horse-racing prohibited.

(2) Any person who is guilty of a violation of this section shall be liable to a fine not exceeding \$50, recoverable under *The Ontario Summary Convictions Act*, or to imprisonment in the common gaol of the county for a period not exceeding thirty days. Penalty. 10 Edw. VII. c. 37.

(3) If any person is convicted under this section, the society proven to have permitted horse-racing shall be debarred from receiving any portion of the legislative grant in the next ensuing year. Society to forfeit grant. 6 Edw. VII. c. 16, s. 22.

(4) Prosecutions under this section may be made only upon the information being laid by a person who is a member of the society for the current year and who also was a member of the society in the previous year. Prosecutions for horseracing. 7 Edw. VII. c. 20, s. 1.

27.—(1) The exhibition of any society shall be held at the place designated as the headquarters of the society. Exhibitions.

(2) When the members of any society have by by-law or resolution fixed upon a place as the headquarters of the society, or upon any place for holding the exhibition of such society for any year the place so designated shall not be changed to any place within 20 miles of the headquarters of another society, but it may be changed to any place not within such radius upon the decision of a majority of the qualified voters as follows:— Changing headquarters of Society.

(a) A special meeting shall be called by the board of directors, or by thirty members as provided in subsection (b) of section 16, for the expressed purpose of considering the question;

(b)

(b) At least two weeks' previous notice of such meeting shall be given by advertisement as prescribed in subsection 2 of section 13;

(c) Only paid-up members for the current year who were also members in the previous year shall be qualified to vote;

(d) The meeting shall be called for ten o'clock in the forenoon, and if a poll is demanded it shall be opened at once and remain open until six o'clock, except that it may be closed by the presiding officer of the society if at any time one hour elapses without any vote being polled. 6 Edw. VII. c. 16, s. 23.

Place of exhibition to have necessary accommodation.

28. The exhibitions of any society shall be held at such place only as shall afford sufficient accommodation for such exhibitions. 6 Edw. VII. c. 16, s. 24.

Power to withhold prizes when fraud shown.

29. The board of directors of any society on being made aware of any fraud having been committed by any member or exhibitor in the entry of any stock or goods in competition for prizes at any exhibition, shall have the power of withholding the payment of any prizes that may have been awarded by the judges to such members or exhibitors on such fraudulent or any other entries made at any such exhibition. 6 Edw. VII. c. 16, s. 25.

KEEPING THE PEACE, ETC., AT EXHIBITIONS.

Appointment of constables.

30.—(1) Any Justice of the Peace having jurisdiction in any city, town, village or township, wherein a fair or exhibition is or is to be held, shall, on the request of the president or executive committee of any society, appoint as many policemen or constables, to be named by the society, as may be required.

(2) The duty of such policemen and constables shall be, at the expense of the society, to protect the property of such society within the exhibition grounds, and to eject all persons who may be improperly within the grounds, or who may behave in a disorderly manner, or otherwise violate any of the rules or regulations of such society. 6 Edw. VII. c. 16, s. 26.

Interfering with officers.

31. If any person wilfully hinders or obstructs the officers or servants of any society in the execution of their duty, or gains admission to the said grounds contrary to the rules of such society, he shall incur a penalty of not less than \$1, nor more than \$20, recoverable under *The Ontario Summary Convictions Act*, to be paid over to such society for its use and benefit, and in default of payment shall be imprisoned for a period not exceeding thirty days. 6 Edw. VII. c. 16, s. 27.

10 Edw. VII.,
c. 37.

32.—(1) The officers of a society may by their rules and regulations prohibit and prevent all kinds of theatrical or circus or acrobatic performances, exhibitions or shows, and may also regulate or prevent the huckstering or trafficking in fruits, goods, wares or merchandise on the exhibition grounds, or within 300 yards thereof; and any person who, after notice of such rules and regulations, violates the same shall be liable to be removed by the officers, policemen or constables of said society, and be subject to the penalty prescribed by the next preceding section.

Prohibiting certain shows and performances, etc.

(2) The officers of the society shall prevent all immoral or indecent shows and all kinds of gambling and all games of chance, including wheels of fortune, dice games, pools, coin tables, draw lotteries or other illegal games at the place of holding the exhibition or fair, or within 300 yards thereof, and any association or society permitting the same shall forfeit all claim to any legislative grant during the year next ensuing.

Duty as to preventing improper shows.

(3) The officers of a society shall not allow any person to exhibit either publicly or to any individual any gambling device or to bring any such gambling device into the buildings or upon the grounds in or upon which the exhibition or fair is being held.

Gambling devices.

(4) No person shall carry on, or assist, or aid in carrying on any kind of gambling, or any game of chance, at any agricultural, live stock, or industrial exhibition or fair, or within half a mile thereof.

Gambling prohibited.

(5) It shall not be lawful to sell or to have for sale on any exhibition ground during the time of holding an exhibition any wine, beer or spirituous liquors, and any society permitting the same shall forfeit all claim to any grant during the next ensuing year.

Sale of liquor on grounds prohibited.

(6) Any person violating the provisions of this section shall incur a penalty of not less than \$20 or more than \$100, recoverable under *The Ontario Summary Convictions Act*.

Penalty.

10 Edw. VII., c. 37.

(7) This section shall apply to all exhibitions held by any society. 6 Edw. VII. c. 16, s. 28.

Application of section.

33.—(1) Any Dominion Police constable or Provincial Police constable shall have the right of free entrance to the grounds and to all the buildings on the grounds where a fair or exhibition is being held under the direction of any society, during the time that the fair or exhibition is being held.

Powers of Dominion and Provincial Constables.

Seizing and
confiscating
gambling
devices, etc.

(2) Any constable or other peace officer may, without warning or notice, immediately seize all devices and instruments used by any person in connection with any kind of gambling or games of chance or immoral or indecent side show, and may arrest such person without warrant and take him before the nearest magistrate having jurisdiction there to be dealt with according to law, and every such device or instrument after the conviction of the person concerned, shall be destroyed under the direction of the magistrate before whom the case is tried. 6 Edw. VII. c. 16, s. 29.

GENERAL PROVISIONS AS TO ELECTIONS.

Who may vote
at meeting.

34 All persons not under eighteen years of age who have paid the membership subscription for the year then next ensuing to any society, shall have the right of voting at the election of officers, and on all other questions submitted to the annual meetings of such societies. 6 Edw. VII. c. 16, s. 30.

When votes
may not be
received

35. No membership subscription for the ensuing year paid after the president or presiding officer has declared the poll open for the election of officers shall entitle any member to vote for such officers, nor shall any votes be received earlier than one o'clock in the afternoon nor later than six o'clock in the afternoon of the same day. 6 Edw. VII. c. 16, s. 31.

Vacancies in
offices.

36. Except as otherwise provided, a vacancy occurring by the death or resignation of any officer of a society may be filled by the remaining officers thereof; and it shall be the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if for any reason a quorum cannot be obtained, persons to fill the vacant offices shall be elected in manner provided by the following section. 6 Edw. VII. c. 16, s. 32.

Failure to elect.

37.—(1) In the event of an election of any officers of a society not being held at the time or place herein directed, or being for any reason illegal and void, the persons in office at the time when such officers should have been elected shall continue to be and shall be deemed to be, the officers of such society until their successors are legally appointed.

Special meet-
ings for elec-
tions.

(2) In the event of any such non-election or illegal election, a special meeting of the members of such society shall be called as soon as practicable for the election of such

officers :

officers; such meeting to be called in the manner provided in subsection 2 of section 13 by the president, or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, then by any three members of the society; and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of such society. 6 Edw. VII. c. 16, s. 33.

MEETINGS OF DIRECTORS.

38. A special meeting of the directors of any society may be called by the president thereof, or, in his absence or on his neglect, by the vice-president, or in the absence or on the neglect of the president and vice-president, then by any three members of such society, of which meeting at least seven days' notice shall be given to each member; and, except as otherwise provided for, a majority of the directors of any such body shall be a quorum. 6 Edw. VII. c. 16, s. 34.

Special meeting of directors

Quorum.

SECURITY BY TREASURER.

39.—(1) The treasurer of every society before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties, which may be in such form as the board of directors or other managing officers may deem necessary, for the faithful performance of his duties, and especially for the duly accounting for and paying over all moneys which may come into his hands.

Security by treasurer of society.

(2) It shall be the duty of the board in each and every year to enquire into the sufficiency of the security given by such treasurer and report thereon; and where the same treasurer for any society is re-appointed from year to year his re-appointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the society for the faithful performance of his duties under such re-appointment shall continue valid as against the parties thereto.

Duty of board as to security.

(3) If the officers of a society neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the society in the possession of the treasurer. 6 Edw. VII. c. 16, s. 35.

Personal responsibility for loss.

MUNICIPAL AID TO AGRICULTURAL AND OTHER SOCIETIES.

40.—(1) The municipal council of any city, town, village, county or township in Ontario may grant or loan money or

Grants from municipal councils.

grant

grant land in aid of any agricultural society formed within the limits of the municipality or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act to be made to the Minister, provided always that the total amount or value of the money or land heretofore or hereafter granted or loaned by any municipality to an agricultural society under this section shall not exceed, in the case of a city, \$3,000, in the case of a town, \$2,000, and in the case of a village, \$1,000.

Security for
loans from
municipalities.

(2) If such grant is a loan of money to enable the society to acquire lands, such municipality may hold the lands so required or may take a mortgage thereon, as security for the amount of such grant until the amount of such grant be repaid to the municipality; and any such grant heretofore made in accordance with the provisions of this Act shall be legal and valid.

Agreements as
to use of build-
ings.

(3) Any of the said municipalities owning lands or buildings for public purposes shall have the power to make agreements on such terms and for such periods as they may deem expedient with any company now formed, or hereafter to be formed, under the provisions of chapter 196 of the Revised Statutes of Ontario, 1897, or of any amendment that may be made thereto, or with any agricultural society for the use of such lands or buildings, or either of them, or for the privilege of erecting on said lands (subject to such terms as may be agreed on) such buildings as they may require for agricultural and industrial shows, and to give the said companies the power of renting said grounds and buildings when owned by said company to any agricultural society formed under this Act or any amendment thereto, to and for the purposes of the annual show or shows of said society, and to grant to such company or society the power to collect during said show or at other times, as may be agreed, from any person wishing to go into or upon any such grounds or buildings, or for any privilege thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal that may be taken thereon, such entrance fee or other charge as the said company or society may deem necessary or expedient. 6 Edw. VII. c. 16, s. 36.

Repeal.

41. Chapter 16 of the Acts passed in the 6th year of His Majesty's reign and all amendments thereto are repealed.

FORM

FORM 1.

DECLARATION OF ASSOCIATION.

We, whose names are subscribed hereto, agree to form ourselves into a society, under the provisions of *The Agricultural Societies Act*, to be called the Agricultural Society of (*designating the point that the Department will be asked to recognize as the headquarters of the society*), and we hereby severally agree to pay to the treasurer the sums opposite our respective names; and we further agree to conform to the by-laws and rules of the said society.

Names.

•

cts.

FORM 2.

AFFIDAVIT AS TO MEMBERSHIP AND PAYMENTS FOR AGRICULTURAL PURPOSES.

County of _____

To Wit:

I, _____, of _____, treasurer of the _____ Agricultural Society make oath and say that during the year ending 31st day of December, 19____, the said Agricultural Society expended the sum of _____ dollars, solely for agricultural purposes, in accordance with the Act, as set forth in the audited financial statement of the Society, and that no prizes for horse races or special attractions, and no prize money other than cash is included in the above amount, and that the number of members of the said Society for 19____ is _____.

Treasurer.

Sworn before me this

day of _____, 19____

Justice of the Peace for the County of
or a Commissioner in H. C. J.

9 Edw. VII. c. 23, s. 6.

EXPENDITURE FOR AGRICULTURAL PURPOSES.

	\$	c.
Prizes paid, Horses, \$		
Cattle, \$		
Sheep, \$		
(Prizes for horses not to include horse races.)		
Prizes paid, Pigs, \$		
Poultry, \$		
Dairy Products, \$		
" " Grain and Seeds, \$		
" " Roots and other hoed crops, \$		
" " Orchard and Garden products		
" " Implements and General Manufactures		
" " Fine Arts, \$		
Ladies' Work, \$		
" " All other objects on Exhibition		
Money paid for prizes awarded in previous years		
" " " " " at Plowing Match		
" " " " " for Field Crop Competition		
(Contributed by Society.)		
Meetings or Lectures for discussion of Agricultural Subjects		
Agricultural Periodicals		
Purchase of Live Stock, \$		
Purchase of Seed and Plants, \$		
Keep of Stock, \$		
Expenses of Delegates to Fairs and Exhibitions		
Convention		
Total Cash Expenditure for Agricultural Purposes		

CHAPTER 20.

An Act respecting Horticultural Societies.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.	GRANT OUT OF PROVINCIAL FUNDS, ss. 18, 19.
INTERPRETATION, s. 2.	EXHIBITIONS, ss. 20, 21.
SOCIETIES CONTINUED, s. 3.	APPOINTMENT OF CONSTABLES, ss. 22, 23.
MINISTER TO DECIDE DISPUTES, s. 4.	RIGHT TO VOTE AT MEETINGS, ss. 24, 25.
INSPECTION OF BOOKS AND ACCOUNTS, s. 5.	VACANCIES IN OFFICE, ss. 26, 27.
ORGANIZATION, ss. 6-8.	SPECIAL MEETING OF DIRECTORS, s. 28.
OBJECTS OF SOCIETIES, s. 9.	TREASURER TO GIVE SECURITY, s. 29.
ANNUAL MEETINGS, s. 10.	MUNICIPAL GRANTS IN AID OF SOCIETY, s. 30.
ANNUAL REPORTS, ss. 11, 12.	REPEAL, s. 31.
BY-LAWS, s. 13.	
MEETING OF DIRECTORS, s. 14.	
DISSOLUTION OF UNION SOCIETIES, ss. 15, 16.	
ANNUAL STATEMENTS TO BE FURNISHED TO DEPARTMENT, s. 17.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- Short title. **1.** This Act may be cited as "*The Horticultural Societies Act.*" 6 Edw. VII. c. 18, s. 1.
- Interpretation. **2.** In this Act
- "Department." (a) "Department" shall mean the Department of Agriculture;
- "Minister" (b) "Minister" shall mean the Minister of Agriculture for the Province of Ontario;
- "Superintendent" (c) "Superintendent" shall mean the Superintendent of Horticultural Societies;
- "Society." (d) "Society" shall mean any Horticultural Society organized under this Act or under any former Agriculture and Arts Act. 6 Edw. VII. c. 18, s. 2.

3. All horticultural societies organized under *The Agriculture and Arts Act* shall be continued, except in so far as they may be affected by this Act. 6 Edw. VII. c. 18, s. 3. Societies continued. Rev. stat. c. 43

4. The Minister may decide all matters of doubt or dispute as to the working or construction of this Act, and his decision shall be final except that an appeal therefrom may be made to the Lieutenant-Governor in Council. 6 Edw. VII. c. 18, s. 4. Minister to decide disputes.

5. The Minister may appoint any person or persons to inspect the books and accounts of any society receiving Government aid, under or by virtue of this Act, and may empower such person or persons to summon witnesses and enforce the production of documents before him, and to take evidence upon oath in regard to such inspection; and all officials of any such society whenever required to do so shall submit the books and accounts thereof to such inspection, and shall truly, to the best of their knowledge, answer all questions put to them in relation thereto, or to the funds of such society. 6 Edw. VII. c. 18, s. 5. Inspection of books and accounts.

ORGANIZATION.

6. A Horticultural Society may be hereafter organized in any city, town or incorporated village. 6 Edw. VII. c. 18, s. 6. May be organized in urban municipalities

7. The mode of organization shall be as follows: Organization.

(a) A declaration, Form "1," shall be signed by the persons residents of the municipality in which the society is organized who desire to organize a society under this Act. In the case of a city having a population of 30,000 or over the number of such persons shall be at least 125; in the case of a city with a population of less than 30,000 the number shall be at least 75. Societies organized in towns having a population of 2,000 or over, shall have at least 60 members, and in the case of an incorporated village the number shall be at least 50; Declaration of membership.

(b) No person shall be considered a member of any Horticultural Society for any year unless he shall have paid at least one dollar into the funds of that society as membership fee for that year; Qualification of members.

(c) Subject to the by-laws of the society, a firm or an incorporated company may become a member Firms and companies.

of

of any society, organized under this Act, or any former Agriculture and Arts Act, by the payment of the regular fee, but the name of one person only, in any one year, shall be entered as the representative or agent of any firm or company, and that person only shall exercise the privileges of membership in the Society or organization;

Calling first meeting.

- (d) Within one month after the money has been so paid the said declaration, with the names and addresses of the signers of same, shall be transmitted to the Minister, who shall thereupon instruct the Superintendent to authorize a person to call the first meeting for the organization of the Society;

When meeting to be held.

- (e) The first meeting of the Society shall be held between the 8th and 14th days, inclusive, of January next ensuing, of which meeting at least two weeks' public notice shall be given by advertising in one or more newspapers published in the district;

Quorum.

- (f) At the said first meeting, and at any subsequent meetings of any Horticultural Society, ten members shall constitute a quorum;

Election of first officers.

- (g) At the said first meeting there shall be elected a president, a first vice-president, a second vice-president, and not more than nine other directors, all of whom must be members of the society, in good standing, or who must become so within fourteen days after their election, who together shall form the board of directors, a majority of which board shall reside in the municipality in which the society is organized;

Auditors.

- (h) At the said first meeting the society shall appoint two auditors for the ensuing year;

Secretary-Treasurer.

- (i) The board of directors, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure. The secretary or the secretary-treasurer, by virtue of his office, shall be a member of each committee appointed and may be given the power of managing director, acting under the control, and with the approval of the board of directors;

(j)

- (j) A report of the organization meeting, certified by the president, a first vice-president, a second vice-president, the secretary and the convener, and containing a statement of the number of members and a list of the officers elected and appointed, shall be sent to the Department within one week after the holding of the meeting. 6 Edw. VII. c. 18, s. 7.
- Report of first meeting.

8. Upon the receipt of such report the society so organized shall be deemed a Horticultural Society, and each society so organized shall be entitled to participate in the legislative grant hereinafter provided, and to enjoy all the privileges granted by this Act. 6 Edw. VII. c. 18, s. 8.

Receipt of report to complete organization.

9.—(1) The objects of Horticultural Societies shall be to encourage improvement in horticulture,—

Objects of societies.

- (a) By holding meetings for discussion and for hearing lectures on subjects connected with the theory and practice of improved horticulture;
- (b) By holding exhibitions and awarding premiums for the production of vegetables, plants, flowers, fruits, trees and shrubs;
- (c) By the distribution of seeds, plants, bulbs, flowers, shrubs and trees in ways calculated to create an interest in horticulture;
- (d) By promoting the circulation of horticultural periodicals;
- (e) By encouraging the improvement of home and public grounds, by the planting of trees, shrubs and flowers, and by otherwise promoting outdoor art and public beauty;
- (f) By offering prizes for essays on questions relating to horticulture;
- (g) By importing and otherwise procuring and distributing seeds, plants, shrubs, and trees of new and valuable kinds.

(2) A society shall not expend more than one-half of its total receipts in any one of the lines of work mentioned. In the above calculation grants or donations for any specific purpose shall not be considered. No society shall hold an exhibition or offer premiums in connection with the exhibition of any agricultural society. 8 Edw. VII. c. 27, s. 2.

Expenditure on work.

Funds not to be expended for inconsistent purposes.

(3) None of the funds of a society shall be expended for any purpose inconsistent with those mentioned, and a society which violates any of the provisions of this and the preceding subsection shall forfeit all claim to the Government grant. 6 Edw. VII. c. 18, s. 9.

Annual meetings.

10.—(1) The annual meetings of a society shall be held during the first seven days of November of each year at such time and place as the board of directors may determine. At any such meeting those members only who have paid their subscriptions for the ensuing year shall be entitled to vote. 8 Edw. VII. c. 27, s. 3 (1).

Notice of meetings.

(2) At least two weeks' previous notice of any such meeting shall be given by advertisement in one or more newspapers published in the municipality, and also by printed placards or bills posted in places of common resort, or by sending the same by registered post to the last known post office address of each member of the society in good standing; such notices shall be mailed at least one week previous to, and shall state the time and place of the meeting.

Failure to hold meetings at regular time.

(3) In case a society fails to hold its annual meeting during the first seven days of November, the Minister, on petition of twenty members, may appoint a time for holding the same not later than the 31st day of December in the same year, and the meeting shall be called as for the regular annual meeting, and shall be taken in all respects as the annual meeting of the society. 8 Edw. VII. c. 27, s. 3 (2).

Dissolution of society, if meeting not held.

(4) In the event of the annual meeting not being held as provided for in this Act, or in the event of the number of the members on the first day of July in any year being less than the number required for organization, the society shall not be entitled to receive any further financial aid from the Legislature of the Province, and shall be deemed to have been dissolved, but the directors elected at the last properly constituted meeting of the society, prior to the said first day of July, shall be trustees of the assets of the society until the same are disposed of by order of the Minister. 8 Edw. VII. c. 27, s. 3 (3).

Delivery over of assets to Department on dissolution.

(5) Upon being notified or becoming aware of the dissolution of any society under the provisions of the preceding subsection, the Superintendent may order the directors to deliver over to the Department the assets, if any, remaining after all just debts have been paid.

Annual report.

11.—(a) At the annual meeting the board of directors shall present a report of their proceedings for the past calendar year, in which shall be stated the

the names of all the members of the society, the amount of money expended in each of the lines of work open to horticultural societies, as outlined in section 9 of this Act. When an exhibition or exhibitions have been held and premiums awarded the report shall show the total amount offered in prizes at each, the amount paid in prizes, and the number of entries;

- (b) The board shall also present a detailed statement of the receipts and expenditures for the preceding year, and a statement of the assets and liabilities of the society, at the end of the year, certified to by the auditors; Detailed statement of accounts.
- (c) The officers and other directors specified in clause (g) of section 7 and to be qualified as therein provided shall be elected by the members, and auditors shall be appointed for the ensuing year. Election of officers.
6 Edw. VII. c. 18, s. 11.

12.—(1) The said reports shall, if approved by the meeting, be placed on record in the books of the society, and shall be sent, not later than the first day of February, to the Department, and the Minister may require all such reports to be made out on schedules to be supplied by the Department in such form as he may direct. Failure on the part of the society to comply with these requirements shall be sufficient to forfeit all claim to participation in the legislative grant. 6 Edw. VII. c. 18, s. 12; 8 Edw. VII. c. 27, s. 4 (1). Reports to be placed on record.

(2) The Minister may require that any of the statements referred to in the above report shall be attested by affidavit in such form as he may prescribe. 8 Edw. VII. c. 27, s. 4 (2).

13. The members of each society may, at any annual meeting, or at a special meeting, of which two weeks' previous notice has been given in the manner required by subsection 2 of section 10, make, alter and repeal by-laws and regulations for the general management of the society; subject to these by-laws and regulations, the board of directors shall have power to act for and in behalf of the society, and all grants and other funds of the society shall be received and expended under their direction. 6 Edw. VII. c. 18, s. 13. By-laws.

14. The first meeting of the board of directors of a society may be held on the day of the annual meeting, and the subsequent meetings may be held pursuant to adjournment, or called by written notice given by authority of the president, Meetings of Directors.

president, or in his absence of the first vice-president, or in the absence or neglect of the president or vice-president, then on the written notice of three of the directors, at least one week before the day appointed, and at any meeting five shall be a quorum. 6 Edw. VII. c. 18, s. 14.

Dissolution of
Union societies.

15. Where two or more municipalities have been united under the provisions of any former Act to form a horticultural society, a dissolution of such union society may be effected in the following manner: A petition requesting the dissolution and the organization of new societies shall be signed by a majority of the members residing in any one of the municipalities, and shall be forwarded to the Minister, and if the number so signing is equal to the number required for the organization of a new society as in section 7, the Minister shall direct that new societies shall be organized in the manner prescribed in section 7, and the former union society shall thereupon become dissolved and shall cease to exist. 6 Edw. VII. c. 18, s. 15.

Distribution of
assets on
dissolution.

16. On the dissolution of a union society the assets of the said society shall be equitably apportioned or divided by arbitrators, or a majority of them, one to be appointed by the board of directors of each of the new societies, and another arbitrator to be chosen by the arbitrators so appointed, or, in the event of the said arbitrators failing to choose such arbitrator within ten days after being appointed, then the senior judge of the county or district court, as the case may be, having jurisdiction in the county or district shall appoint such arbitrator. 6 Edw. VII. c. 18, s. 16.

Annual state-
ments to be
furnished to
Department.

17. On or before the first day of July, of each year, the officers of every society shall send to the Department an affidavit, stating the number of members in good standing at the time of making the same, and also the amount of money expended for horticultural purposes, as defined by this Act. 8 Edw. VII. c. 27, s. 5.

Grant out of
Provincial
funds.

18. Every Horticultural Society organized under or recognized by this Act shall be entitled to receive a grant out of the unappropriated moneys in the hands of the Treasurer of the Province, the grant to be paid on the recommendation of the Superintendent, and on the following conditions:

(a) That the number of paid-up members for the current year is not less than the number required for organization;

(b) That all reports and returns required by this Act have been made to the satisfaction of the Superintendent;

(c)

(c) That the annual meeting has been held as required and officers elected, in accordance with section 11;

(d) That the objects of the said society, as given in section 9, have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with these objects. 6 Edw. VII. c. 18, s.18.

19.—(1) An amount not exceeding \$8,000 shall be sub-^{Provincial fund in aid of societies.}ject to division among the Horticultural Societies of the Province as follows:

(a) \$2,400 shall be subject to division among all the societies in proportion to the total number of members of each society in the preceding year;

(b) \$4,800 shall be subject to division among all the societies in proportion to the total amount expended by each society during the preceding year for horticultural purposes, in accordance with the provisions of section 9. 8 Edw. VII. c. 27, s. 6 (1).

(c) In addition to the above, \$800 shall be subject to division among the Horticultural Societies in cities having a population of 30,000 or over, in proportion to the number of members in the preceding year. 8 Edw. VII. c. 27, s. 6 (2).

(d) Societies in the first year of their existence shall receive grants at the rate of one dollar for each paid-up member on the first day of July, said grant not to exceed seventy-five dollars. 8 Edw. VII. c. 27, s. 6 (3); 9 Edw. VII. c. 26, s. 28.

(e) After the first day of January, 1910, no society shall be entitled to receive an annual grant of more than \$800. 9 Edw. VII. c. 26, s. 28.

(2) Any amount voted by the Legislature in addition to the amounts stated above in this section shall be divided among the societies in the same proportion and in the same manner as prescribed in subsections (a) and (b) of this section. 10 Edw. VII., c. 26, s. 39.

20. The exhibitions of any society shall be held within^{Exhibitions.} the limits of the municipality in which the society is organized, and shall be held at such place as shall afford sufficient accommodation for such exhibitions. 6 Edw. VII. c. 18, s. 20.

Fraud in obtaining prizes.

21. The board of directors, on being made aware of any fraud having been committed by any member or exhibitor in the entry of any horticultural product in competition for prizes at any exhibition, may withhold the payment of any prizes that may have been awarded by the judges to any members or exhibitors on such fraudulent, or any other entries made at any such exhibition. 6 Edw. VII. c. 18, s. 21.

Appointment of constables.

22. Any justice of the peace having jurisdiction in any city, town, or village, wherein an exhibition is held, shall, on request of the president or executive committee of any Horticultural Society, appoint as many policemen or constables as may be required at the expense of the said society, whose duty it shall be to protect the property of such society, and to eject all persons who may be improperly within the grounds, or on the premises, or who may behave in a disorderly manner, or otherwise violate any of the rules or regulations of such society. 6 Edw. VII. c. 18, s. 22.

Interference with officers.

23. If any person wilfully hinders or obstructs the officers or servants of any Horticultural Society in the execution of their duty, or gains admittance to the exhibitions of such society contrary to the rules of such society, he shall incur a penalty of not less than \$1, and not more than \$20, recoverable under the provisions of *The Ontario Summary Convictions Act*, and to be paid over to such society for its use and benefit; and in default of payment shall be liable to imprisonment for a period not exceeding thirty days. 6 Edw. VII. c. 18, s. 23.

10 Edw., VII.
c. 37.

Right to vote at meeting.

24. All persons not under eighteen years of age, who have paid the membership subscription for the year then ensuing to any society to which this Act applies, shall have the right of voting at the election of officers and on all other questions submitted to the annual meetings of such societies. 6 Edw. VII. c. 18, s. 24.

Subscriptions paid after poll opens.

25. No membership subscription for the ensuing year paid at the annual meeting after the president or presiding officer has declared the poll open for the election of officers, shall entitle any person to vote for such officers. 6 Edw. VII. c. 18, s. 25.

Vacancies in office.

26. Except as otherwise provided, a vacancy occurring by the death or resignation of any officer of a Horticultural Society organized under this Act may be filled by the remaining officers thereof; and it shall be the duty of such officers, and they are hereby empowered to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum

quorum, or if for any reason a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in the next section. 6 Edw. VII. c. 18, s. 26.

27.—(1) In the event of an election of any officers of a society not being held at the time or place herein directed, or being for any reason illegal or void, then the persons in office at the time when such officials should have been elected shall continue to be, and shall be deemed to be, the officers of such society, until their successors are legally appointed. ^{Illegal election.}

(2) In the event of any such non-election, or illegal election, a special meeting of the members of such society shall be called, as soon as practicable, for the election of such officers, such meeting to be called (in the manner provided in subsection 2 of section 10) by the president, or in his absence or on his neglect by the vice-president, or in the absence or on the neglect of the president and vice-president, then by three members of the society, and at such meeting the election of officers shall take place and the persons elected shall thenceforth, until their successors are appointed, be and be deemed to be the officers of such society. 6 Edw. VII. c. 18, s. 27. ^{Special meeting for election.}

28.—(1) A special meeting of the directors of any society organized under this Act may be called by the president thereof, or in his absence or on his neglect by the vice-president, or in the absence or on the neglect of the president and vice-president, then by any three members of such body, of which meeting at least seven days' notice shall be given to each member. ^{Special meeting of directors.}

(2) Except as otherwise provided for, a majority of the directors of any such body shall be a quorum. 6 Edw. VII. c. 18, s. 28. ^{Quorum.}

29.—(1) The treasurer of every society before entering upon the duties of his office, shall give such security either by joint or several covenant with one or more sureties, or otherwise, as the Board of Directors, or other managing officers may deem necessary, for the faithful performance of his duties, and especially for the duly accounting for and paying over of all moneys that may come into his hands. ^{Treasurer to give security.}

(2) It shall be the duty of every such board in each and every year to enquire into the sufficiency of the security given by such treasurer and report thereon; and where the same treasurer for any society is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuance of the former appointment, ^{Board to see that security given.}

ment, and any such bond or security given to the society for the faithful performance of his duties under such re-appointment shall continue valid as against the parties thereto.

Personal
responsibility
of officers.

(3) If the officers of a society neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the society in the hands of the treasurer. 6 Edw. VII. c. 18, s. 29.

Municipal
grants in aid
of society.

30. The municipal council of any city, town or village, county or township of this Province, may grant or loan money in aid of any Horticultural Society formed within the limits of the municipality, when such society has made the returns required by this Act to be made to the Minister. 6 Edw. VII. c. 18, s. 30.

Repeal.

31. Chapter 18 of the Act passed in the 6th year of His Majesty's reign, and all amendments thereto, are repealed.

FORM 1.

DECLARATION OF ASSOCIATION.

We, whose names are subscribed hereto, agree to form ourselves into a society, under the provisions of *The Horticultural Societies Act*, to be called the Horticultural Society of (*naming the point that will be the headquarters of the society*); and we hereby severally agree to pay to the treasurer the sums opposite our respective names; and we further agree to conform to the by-laws and rules of the said society:

Names.

\$

cts.

CHAPTER 21.

An Act respecting The Queen Victoria
Niagara Falls Park.*Assented to 19th March, 1910.*

SHORT TITLE, s. 1.

COMMISSIONERS, s. 2

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QUEEN VICTORIA NIAGARA FALLS
PARK.

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FORESHORE AND BED OF RIVER.
s. 5.ST. CATHARINES, THOROLD AND
NIAGARA FALLS ROAD CO.,
s. 6.

STREET RAILWAY, s. 7.

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8-10.

DEBENTURES, ss. 11, 12.

POWERS OF COMMISSIONERS—AS
TO CONSTRUCTION AND AS TO
TOLLS, ss. 13, 14.PARK TO BE A PUBLIC WORK, s.
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BY-LAWS, OFFICERS, ETC., ss. 17,
18.BOOKS OF ACCOUNT TO BE KEPT,
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CLIFTON, SUSPENSION AND OTHER
BRIDGE COMPANIES, ss. 26,
27.COMMISSIONERS EMPOWERED TO
GRANT STRIP TO CLIFTON
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POWERS OF CANADIAN NIAGARA
POWER CO., s. 29.AGREEMENT WITH OTHER COM-
PANIES, s. 30.EXPENDITURES MADE UNDER 3
EDW. VII. c. 6, MAY BE MET
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UNDER THIS ACT, s. 31.

PART II.

BUTLER'S BURYING GROUND.

Power to acquire Butler's
Burying Ground, s. 32.Rights of interment not
affected, s. 33.

PART III.

LUNDY'S LANE CEMETERY, s. 34,
35.

PART IV.

REPEAL, s. 36.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Queen Victoria Niagara Falls Park Act.*" R.S.O. 1897, c. 45, s. 1. Short title.

2.—(1) The Lieutenant-Governor in Council may ap-
point a Board of Commissioners composed of not less than
five persons, which board shall be a corporation by the name
of "The Commissioners for the Queen Victoria Niagara Falls
Park." Board of Commission-
ers.

(2) The members of the board shall hold office during
pleasure.

(3)

(3) The Commissioners shall receive their actual disbursements, but no compensation. R.S.O. 1897, c. 45, s. 2.

PART I.

QUEEN VICTORIA NIAGARA FALLS PARK.

Boundaries of
park.

3.—(1) The lands in the vicinity of Niagara Falls selected by the Commissioners and approved by the Lieutenant-Governor in Council, whereof the boundaries as surveyed upon the ground are shown by a red verge line marked upon a map, whereof copies duly certified and authenticated are filed and deposited in the office of the Registrar of the County of Welland and in the Department of Lands, Forests and Mines, excepting thereout the strip of land, lying between Range No. 6, as laid down in the plan of the City of the Falls, in the Township of Stamford, on the north, and by Street's Mill Road and the lands held by the Carmelite Monastery on the south, the easterly boundary whereof is at a distance of 130 feet east of the centre line of the Canada Southern Railway, and the westerly boundary whereof is the westerly line of the Park as marked upon the said map, shall constitute "The Queen Victoria Niagara Falls Park" and shall be vested in the said Corporation as trustees for the Province.

3 Edw. VII.
c. 19.

(2) Until the municipal corporation otherwise enacts by by-law, passed in compliance with section 632 of *The Consolidated Municipal Act, 1903*, Robinson and Murray streets shall be public entrances to the Park for visitors in carriages, or on horses, or on foot. R.S.O. 1897, c. 45, s. 3.

Lands along
river bank.

4. The lands lying along the bank of the Niagara river, and not included in the original survey of lots laid out in the Townships of Stamford and Niagara, which have by order of the Lieutenant-Governor in Council been vested in the Commissioners to be held for the purposes of the Park, and commonly known as "The Chain Reservation," shall form part of the Park and be subject to the control of the Commissioners as other lands within the boundaries of the Park. R.S.O. 1897, c. 45, s. 4.

Foreshores
and part of
bed of Niagara
River may be
vested in
Commission-
ers.

5. The Lieutenant-Governor in Council may also vest in the Commissioners, to be held for the purposes of the Park and subject to any conditions which may be imposed by Order in Council, any portions of the foreshores or bed of the River Niagara or lands covered with water in the River Niagara, which lie in front of the lands vested in the Commissioners by section 3, and which at the time of the Order in Council are the property of Ontario, and the foreshores, bed of the

river

river and lands so vested shall thenceforth form part of the Park and be subject to the control of the Commissioners as other Park lands. R.S.O. 1897, c. 45, s. 5.

6.—(1) The rights, title, possession and franchises which were held and exercised by the St. Catharines, Thorold, and Niagara Falls Road Company, or by the persons having the title, interest and possessory rights thereof in respect of that portion of the St. Catharines, Thorold, and Niagara Falls Road, between the Table Rock and Niagara Falls Suspension Bridge on lot 92 of Stamford are also vested in the Commissioners.

Rights of proprietors of road vested in Commissioners.

(2) All rights to take and collect tolls, as well as the public rights in the portion of the St. Catharines, Thorold, and Niagara Falls Road, within the limits of the Park, as shown upon the said plan, are extinguished. R.S.O. 1897, c. 45, s. 6.

7. The Commissioners shall have power to construct and operate a street railway over the said road and may build the same to any points or lands vested in the Commissioners and tolls on any such railway may be charged as provided by sections 13 and 15. R.S.O. 1897, c. 45, s. 7.

Commissioners may construct street railway.

8. The Commissioners shall have power to expropriate, in accordance with section 10 the interest of any person in any land lying between the river and the road built on the Chain Reservation, and vested in the Commissioners under the authority of this or any other Act. R.S.O. 1897, c. 45, s. 8.

Powers of expropriation.

9.—(1) The Commissioners with the consent of the Lieutenant-Governor in Council may enter upon, take, use or acquire such lands, tenements and rights as they think expedient to be acquired for the purpose of making, forming and completing any new roads, avenues or approaches to the Park, but, except where the lands, tenements, or rights to be acquired are for the purpose of opening or widening a highway, the Commissioners shall not take any land for the purposes aforesaid without the consent of the parties interested therein. R.S.O. 1897, c. 45, s. 9 (1); 4 Edw. VII. c. 10, s. 9 (1).

Power to acquire lands for approaches, roads, etc.

(2) A highway so opened or widened shall not be used or occupied as a stand by vehicles kept for hire, or by booths or stands for the sale of newspapers or photographs, or for the carrying on of a refreshment business or the like. 4 Edw. VII. c. 10, s. 9 (2).

Procedure to
acquire land,
etc.

10 Edw. VII.
c. 11.

10.—(1) Whenever the Commissioners are authorized by the Lieutenant-Governor in Council to enter upon, take, use or acquire any lands, tenements or rights under the provisions of sections 8, 9 or 12, the Commissioners, in respect thereof shall have the powers and shall proceed in the manner provided by *The Ontario Public Works Act* where the Minister of Public Works takes land or property for the use of the Province, and the provisions of that Act shall *mutatis mutandis* apply. See 7 Edw. VII. c. 19, s. 9.

(2) The compulsory powers conferred by this Act shall extend to lands, works, rights, powers, privileges and property notwithstanding that the same are or may be deemed to be devoted to the public use or that the owner thereof possesses the power to take lands compulsorily. See 7 Edw. VII. c. 19, s. 10.

Issues of de-
bentures
authorized.
50 V. c. 13.

57 V. c. 13.

11.—(1) The debentures, amounting to \$525,000, issued by the Commissioners under the authority of *The Queen Victoria Niagara Falls Park Act*, 1887, and countersigned by the Treasurer of the Province and guaranteed by Order in Council, shall, equally and without preference of one over another, be a charge on all the revenues of the Corporation, and subject thereto the further issue amounting to \$75,000, subsequently issued by the Commissioners under the authority of *The Act respecting the Queen Victoria Niagara Falls Park*, passed in the fifty-seventh year of the reign of Her late Majesty Queen Victoria, countersigned and guaranteed as aforesaid, shall also equally and without preference of one over another, be a charge on the said revenues.

(2) The debentures being so issued and countersigned shall be conclusive of the same having been issued in pursuance of the said Acts, and of the same being guaranteed by the Province of Ontario.

(3) The debentures and the coupons for interest annexed thereto shall be transferable by delivery. R.S.O. 1897, c. 45, s. 11.

Further issue
of debentures
for \$300,000.

12.—(1) Subject to the debentures issued and secured under section 11 in the order of charge thereby enacted the Commissioners may, with the approval of the Lieutenant-Governor in Council, issue further debentures to an amount not exceeding in all \$300,000 for improvements and the appropriation and application of the proceeds, the form

and

and effect of the debentures, their payment with interest, as also the security guarantee and negotiability thereof shall be as provided by section 11 with respect to the debentures therein mentioned. 8 Edw. VII. c. 29, s. 1; 9 Edw. VII. c. 24, s. 2.

(2) The proceeds of the further debentures mentioned in subsection 1 shall be applied by the Commissioners primarily towards the preservation of the bank of the Niagara River, between Fort Erie and the southerly boundary of the Park proper against erosion, wash or other action by nature affecting or which may affect the same, and the construction of an esplanade on and along the said bank for public purposes and of such width as may be determined and for the purchase of such land as may be necessary or the acquisition thereof by expropriation in accordance with the powers exercisable by the Commissioners under this Act. The holders of the debentures shall not be required to see to the application of the said proceeds. 8 Edw. VII. c. 29, s. 2 (1).

(3) A plan and survey shall be made of the lands which the Commissioners propose to purchase, take or acquire under the powers conferred by subsection 2.

(4) The plan shall be approved and certified by the Commissioners who shall keep one copy thereof on file in their office and a duplicate shall be deposited in the office of the Minister of Public Works.

(5) If any alterations in the plan or survey of the land proposed to be taken are deemed advisable to be made, the Commissioners may make the same and a plan in duplicate showing such alterations on the same scale and containing the same particulars as the original plan and survey shall be deposited and kept in the same manner as the original plan and survey.

(6) A copy of any such plan or survey, certified by the Chairman, under the corporate seal of the Commissioners, shall be evidence that the original thereof was deposited at the time certified thereon and shall be prima facie proof of the original so deposited and that the same was signed, certified or otherwise approved of by the Commissioners in the manner in which the same purports to be signed and certified and that the same was prepared and approved by the Commissioners. See 6 Edw. VII. c. 30, s. 59, ss. (2), (3), (8), (12), (*The Ontario Railway Act, 1906*).

13.—(1) Subject to any direction of the Lieutenant-Governor in Council, the Commissioners may

Applications
of proceeds
of further
issue.

Powers of
Commis-
sioners.

(a)

- (a) Construct and operate inclined planes and hydraulic or other lifts, to be worked by any power; and may build and operate boats or vessels to be used in connection with the Park;
- (b) Pull down all houses and other erections and buildings on lands acquired and purchased by the authority of this Act, or such of them or such part thereof as they shall think proper to be pulled down, and may level and clear the ground whereon the same stand, in such manner as they think proper, and sell the materials of the houses and other buildings to be taken down and removed; and the moneys to be produced by the sale thereof, after deducting expenses, and also the rents and profits to which they may be entitled meantime, shall be applied in carrying out the purposes of this Act;
- (c) Lay out, plant and enclose the Park in such manner as they think fit, and improve and develop the same in accordance with the objects of this Act;
- (d) Take and collect tolls for the use of constructions, appliances, vessels or works required to afford facilities to visitors to reach and view the points of interest within the Park, and involving the expenditure of money in construction and maintenance, as well as for services to be rendered for the convenience or accommodation of visitors;
- (e) Make orders and regulations for opening and closing the gates and entrances of the Park, at such hours as they think fit, but so as not to interfere with, or affect, an agreement heretofore entered into between the Commissioners and the Canada Southern Railway Company. R.S.O. 1897, c. 45, s. 12.

Park to be a
Public Work.

14. All works or lands whereon any expenditure is authorized in pursuance of this Act shall be deemed and are declared to be Public Works of Ontario notwithstanding that they are in the care or charge of the Commissioners. 9 Edw. VII. c. 24, s. 3, *part*.

15. No by-law, plan of works proposed, tariff of toll or payment for the use of works, vessels or services, shall be acted upon until approved by the Lieutenant-Governor in Council. Plans, tolls and by-laws subject to approval of Lieutenant-Governor.
R.S.O. 1897, c. 45, s. 13.

16. The Park Grounds shall be open to the public, subject to any rules and regulations as to management approved by the Lieutenant-Governor in Council. Grounds open to public. R.S.O. 1897, c. 45, s. 14.

17.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may make by-laws for the use, government, control and management of the Park, and for the protection and preservation of all works of the same from injury, and of the trees, shrubs, walks, seats, gates, fences and palings and all other parts thereof, and for the exclusion of improper persons from the same, and may by any such by-law impose a penalty, not exceeding \$20, for any breach thereof. Powers of commissioners as to by-laws. R.S.O. 1897, c. 45, s. 15, *part*.

(2) Any offence against any such by-law shall be punishable upon summary conviction under *The Ontario Summary Convictions Act*. Offences against by-laws. 8 Edw. VII., c. 29, s. 4. 10 Edw. VII. c. 37.

18.—(1) The Commissioners may appoint such officers as may be required for the superintendence and management of the Park, and may also appoint Park keepers and other officers to preserve order in the Park, and may dismiss any persons so appointed. Park officers.

(2) Such appointments or dismissals shall be subject to the approval of the Lieutenant-Governor in Council.

(3) The salaries of such officers shall be payable out of any funds in the hands of the Commissioners.

(4) The Commissioners may employ gardeners and workmen, as they may deem necessary, and may dismiss or dispense with the services of such persons, subject to any directions of the Lieutenant-Governor in Council. Gardeners and workmen. R.S.O. 1897, c. 45, s. 15, *part*.

19. The Commissioners shall cause books to be provided and true and regular accounts to be entered therein of all moneys received and paid, and of the several purposes for which the same were received and paid; and such books shall at all times be open to the inspection of any of the Commissioners, and of the Treasurer of Ontario and of any person appointed by the Commissioners or Treasurer for that purpose, and of any other person appointed by the Lie-

tenant-Governor

tenant-Governor; and any Commissioner and any such person may take copies of or extracts from such books. R.S.O. 1897, c. 45, s. 15.

Securities for
moneys.

9 Edw. VII.
c. 5.

20. Any person entrusted by the Commissioners with the custody or control of money by virtue of his employment shall give security in the manner and form provided by *The Public Officers Act*. R.S.O. 1897, c. 45, s. 15, *part*.

Revenue and
rental payable
by certain
Power Com-
panies.

21. (1) The revenues and rentals payable or collectable under the several agreements made by and between the Commissioners acting on their own behalf and with the approval of the Government of the Province of Ontario and the Canadian Niagara Power Company, the Ontario Power Company of Niagara Falls and the Electrical Development Company of Ontario, Limited, shall be applied:—

(a) To the payment half-yearly of the interest payable on the debentures issued by the Commissioners, namely, such as are described in section 11, and such as have been issued or are issuable under section 12, in all \$900,000;

(b) To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures.

(2) The application of the sinking fund in respect of such debentures shall be as provided by section 23. 9 Edw. VII. c. 24, s. 5.

Collection and
application
thereof.

22. Subject to any direction or order of the Lieutenant-Governor in Council, and to the provisions of this Act, the Commissioners may continue to collect the revenues and rentals in the next preceding section mentioned, and for the years, 1910, 1911 and 1912 and shall apply the same in accordance with the provisions of that section. 9. Edw. VII. c. 24, s. 6.

Application of
revenue.

23. The revenue received from the sources authorized by this Act and any excess of revenue received under the next two preceding sections shall be applied as follows:—

1st. To the necessary outgoing expenses of all works necessary to the preservation, improvement, and maintenance of the Park, and to the payment of the salaries of the officers and others employed by the Commissioners, and other incidental expenses.

2nd.

2nd. To the payment half-yearly of the interest payable on the debentures issued by the Commissioners.

3rd. To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures issued as aforesaid. R.S.O. 1897, c. 45, s. 16.

24. The annual sums for the sinking fund shall be remitted by the Commissioners to the Treasurer of Ontario by half-yearly payments in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1897, c. 45, s. 17.

Application of sinking fund.

25.—(1) The Commissioners shall make an annual report for the information of the Legislature, setting forth the receipts and expenditure of the year and such other matters as may appear to them to be of public interest in relation to the Park, or as the Lieutenant-Governor in Council may direct.

Annual report and accounts.

(2) Sections 11 and 29 to 31 of *The Audit Act* shall apply to the accounts of the Commissioners in respect of receipts and expenditures. R.S.O. 1897, c. 45, s. 18.

8 Edw. VII. c. 9, ss. 11, 29-31 to apply.

26.—(1) The Commissioners may empower the Clifton Suspension Bridge Company to operate their cars by any power, except steam, to and from their bridge across the Chain Reservation, subject to any order of the Board of Railway Commissioners of Canada in that behalf and subject to the rights if any of the Niagara Falls Park and River Railway Company, and to the terms of any agreement made with such company.

Operating cars across the Clifton Suspension Bridge.

(2) Any agreement between the Commissioners and the Clifton Suspension Bridge Company heretofore made which, if made hereafter, would be authorized by this section, is confirmed as if made after the passing of this Act. R.S.O. 1897, c. 45, s. 22.

27. Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may, upon terms to be agreed on, grant to the Clifton Suspension Bridge Company, or any other duly incorporated bridge company, any rights over or in respect of lands held by the Commissioners which may be required for the purposes of building any new bridge over the Niagara river, or of confirming the present occupation of land by any bridge company now existing, but this shall not authorize the granting of any rights for the purpose in this section mentioned, through the lands vested in the Commissioners by section 3. R.S.O. 1897, c. 45, s. 23.

Granting rights over lands to bridge companies.

Rights not to be granted in Park proper.

Commissioners empowered to grant strip to Clifton Suspension Bridge Company.

28. Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may grant to the Clifton Suspension Bridge Company a strip of Land from the Chain Reservation along the Niagara River and abutting the lands in occupation of the Company. R.S.O. 1897, c. 45, s. 24.

Agreement for surrender of powers of Canadian Niagara Power Co.

29. The Commissioners with the approval of the Lieutenant-Governor in Council and the Canadian Niagara Power Company may enter into an agreement for the surrender and abandonment of the sole or exclusive right to use the waters of the Niagara River within the limits of the Park granted by the agreement bearing date the seventh day of April, 1892, and set out in Chapter 8 of the Statutes of Ontario, 1892, upon such terms and conditions as to abatement of rent, the extension of time for the completion of the contract under the agreement or any variation of such contract and for other purposes in connection therewith as may to the Commissioners and the Lieutenant-Governor in Council appear to be necessary or in the public interest, and any such agreement so entered into shall be binding and effectual according to its terms. 62.V. (2), c. 11, s. 35.

Agreements with other companies.

30. The Commissioners with the approval of the Lieutenant-Governor in Council may enter into an agreement or agreements with any person or corporation to take water from the Niagara River or from the Niagara and Welland Rivers at certain points within or without the Park for the purpose of enabling such person or corporation to generate within or without the Park electricity, pneumatic, hydraulic or other power, conducting and discharging such water through and across the Park or otherwise, in such manner, for such rental and upon such terms and conditions as may be embodied in the agreement, and as may appear to the Lieutenant-Governor in Council to be in the public interest, including provisions for the removal or demolition of any houses, buildings or structures and the re-erection of the same, or the erection of other houses, buildings or structures instead thereof; but no such agreement shall be operative unless and until ratified and confirmed by resolution of the Assembly. 62 V. (2), c. 11, s. 36; 3 Edw. VII. c. 7, s. 52.

Expenditure made under 8 Edw. VII. c. 6, may be met out of debentures issued under this Act.

31. Any expenditure which the Commissioners may have made or incurred under or in pursuance of section 14 of the Act passed in the third year of His Majesty's reign, Chaptered 6, intituled *An Act providing for the Construction of Works of Improvement along the Bank of the Upper Niagara River*, shall be discharged by the application of money to be raised on the debentures authorized under this Act as the Lieutenant-Governor in Council may determine. 8 Edw. VII., c. 29, s. 3, *in part*.

PART II.

BUTLER'S BURYING GROUND.

32.—(1) The Commissioners shall have power to acquire the land set apart as a burying ground, wherein the remains of Colonel John Butler and other officers and men of the corps known as Butler's Rangers, were interred, and described as:

Power to acquire Butler's burying ground.

All that certain parcel or tract of land situate in the township of Niagara, in the county of Lincoln, containing two rods and thirty-six perches, more or less, and being part of a certain tract of land containing one hundred and fifteen acres, more or less, granted by patent from the Crown, bearing date the fifth day of February, one thousand eight hundred and three, to one Andrew Butler, gentelman, and described as follows:—Commencing in survey at the distance of eighty-six chains from what is called the Mile tree on the Garison Line, on a course bearing north seventeen degrees west and which said two rods and thirty-six perches are butted and bounded or may be otherwise known as follows, that is to say, commencing at a stone monument marked G.Y., at the southeast angle of the graveyard, thence north eight degrees forty minutes east two chains, thence north forty-nine degrees west along the bottom of the hill two chains, thence south seventy-one degrees west one chain seventeen links, thence south ten degrees west three chains fifty links, thence north seventy degrees east one chain sixty-one links to the place of beginning.

(2) Where the boundaries of such lands have become obliterated the Commissioners shall have power to acquire such parcels of land as they shall determine with the aid of an Ontario Land Surveyor to be identical or as nearly as may be identical with such burying ground.

(3) The Commissioners shall have power to acquire roadways not exceeding 40 feet in width from any of the roads in the neighbourhood of the burying ground.

And roadways.

(4) Upon acquiring such land, or any part thereof, from any person now in possession of the same or of any part thereof, claiming title by prescription or by conveyance from a person claiming title by prescription, and shewing such title to the satisfaction of the Commissioners, a valid title to such land shall be vested in the Commissioners.

(5) With the consent of the Lieutenant-Governor in Council, the Commissioners may acquire other adjacent lands.

Other adjacent lands.

(6) The Commissioners in respect of such lands and ways shall have powers for the acquisition, management, control and improvement thereof similar to those conferred by Part I. 7 Edw. VII. c. 21, ss. 1-4.

General powers in relation thereto.

Rights of
interment
not affected.

33. Nothing in the next preceding section shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there interred, but, subject to the provisions of this section, the Commissioners shall have the right to enter upon, put in order, maintain and keep in repair such burying ground.
7 Edw. VII., c. 21, s. 5.

PART III.

LUNDY'S LANE CEMETERY.

Drummond
Hill Bury-
ing Ground
vested in
commission.

34.—(1) The interest of the Crown in the lands set apart as a burying ground and sometimes known as Drummond Hill Burying Ground, is hereby vested in the Commissioners, which said lands are particularly described as follows:—

All and singular that certain parcel or tract of land and premises situate, lying and being in the City of Niagara Falls in the County of Welland and being composed of Lot No. 6, on the south side of Lundy's Lane between Victoria Street and Main Street and Lot No. "C" in the rear thereof, both being known as part or parcel of the Drummond Hill Burying Ground and shown upon plan No. 653 registered for the Village of Niagara Falls, and which may be better described as follows, that is to say;—Commencing at the north-west corner of said Lot No. 6, thence southerly and along the westerly limit of said lots Nos. 6 and "C" four hundred and forty feet ten and one-half inches, more or less to the south-west corner of said lot "C," thence easterly along the south limit of said lot "C" three hundred and six feet eleven inches, more or less, to the south-east corner of said lot "C," thence northerly along the east limit of said lots "C" and 6, four hundred and forty feet ten and one-half inches more or less to the south side of Lundy's Lane and thence westerly along the said south side of Lundy's Lane three hundred and six feet eleven inches, more or less, to the place of beginning.

(2) The commissioners in respect of such land shall have powers for the management, control and improvement thereof similar to those conferred by Part I.

Existing
rights as to
burial pre-
served.

35. Nothing in the next preceding section shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there

interred,

interred, but, subject to the provisions of this section, the commissioners shall have the right to enter upon, put in order, maintain and keep in repair such burying ground.

PART IV.

REPEAL.

36. Chapter 45 of the Revised Statutes, 1897, and all amendments thereto except section 4 of the Act passed in the ninth year of His Majesty's reign, chaptered 24, and Chapter 21 of the Acts passed in the seventh year of His Majesty's reign, are repealed. ^{Repeal.}

CHAPTER 22.

An Act to establish The Algonquin National Park of Ontario.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 LIMITS AND PURPOSES OF PARK,
 ss. 3-6.
 MANAGEMENT, s. 7.
 REGULATIONS TO BE PUBLISHED,
 s. 8.
 HUNTING, FISHING, ETC., PROHI-
 BITED, ss. 9-12.
 CONFISCATION OF NETS, WEAPONS,
 ETC., ss. 13, 14.
 CUTTING TIMBER PROHIBITED, s.
 15.
 EXPLORING FOR MINERALS, s. 16.
 INTOXICATING LIQUORS, s. 17.

GENERAL PENALTIES, ss. 18, 19.
 POWERS OF PARK RANGER, s. 20.
 SUPERINTENDENT'S AUTHORITY, ss.
 21, 22.
 ACTS FOR PROTECTION OF FISH
 AND GAME TO APPLY, s. 23.
 LICENSED GUIDES, s. 24.
 PUNISHMENT OF OFFENDERS, ss.
 25, 26.
 WHO MAY TRY, s. 27.
 APPLICATION OF FINES, s. 28.
 PROCEDURE ON PROSECUTIONS, s.
 29.
 REPEAL, s. 30.

HIS MAJESTY, by and with the advice and consent
 of the Legislative Assembly of the Province of Ont-
 ario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Algonquin National Park Act.*" R.S.O. 1897. c. 46, s. 1.

**Interpreta-
tion.** 2. In this Act "Minister" shall mean the Minister of Lands,
 Forests and Mines.

**Boundaries of
park.** 3. The tract of land comprising the following townships
 being the lands of the Crown, and lying within the Terri-
 torial District of Nipissing, that is to say, the Townships of
 Peck, Hunter, Devine, Biggar, Wilkes, Canisbay, McLaugh-
 lin, Bishop, Osler, Pentland, Sproule, Bower, Freswick, Lis-
 ter, Preston, Dickson, Anglin, Deacon, all that portion of
 the Township of Finlayson east of the side road between lots
 20 and 21 in the several concessions thereof; all that portion
 of the Township of McCraney, east of the side road between
 lots 15 and 16 in the several concessions thereof; all that
 portion of the Township of Butt, east of the side road be-
 tween lots 15 and 16 in the several concessions thereof; all
 that portion of the Township of Paxton, east of the side road
 between lots 15 and 16 in the several concessions thereof; all
 that

that portion of the Township of Ballantyne, east of the side road between lots 20 and 21 in the several concessions thereof, except lot 21 in the 5th concession; all that portion of the Township of Boyd, south of the line between concessions 10 and 11, the west half of the Township of Fitzgerald comprising lots 1 to 20 in concessions 1 to 14 inclusive; lots 1 to 20 in concessions 1 to 14 inclusive in the Township of White; lots 16 to 38 in concessions 1 to 14 inclusive in the Township of Niven, and lots 16 to 37 in concessions 4 to 15 inclusive, the north 80 acres of lot 36 and the north 72 acres of lot 37 in the 2nd concessions, and lots 35, 36 and 37 in the 3rd concession in the Township of Clancy, is hereby withdrawn from sale, settlement and occupancy under the provisions of *The Public Lands Act*, *The Free Grants and Homesteads Act*, and *The Mining Act of Ontario*.

Rev. Stats.
cc. 28, 29,
8 Edw. VII.,
c. 21.

4. The said tract of land is hereby reserved and set apart as a public park and forest reservation, fish and game preserve, health resort and pleasure ground for the benefit, advantage and enjoyment of the people of Ontario, subject to the provisions of this Act and of the regulations hereinafter mentioned, and shall be known as "The Algonquin National Park of Ontario." R.S.O. 1897, c. 46, s. 3.

Dedication of
park.

5.—(1) The Lieutenant-Governor in Council may add to the Park any adjacent townships or parts of townships, and in case of any such addition this Act shall be read with respect to such townships or parts of townships as if the same were mentioned in section 3.

Lieutenant-
Governor may
add other
townships to
park.

(2) Where lands have been granted in any such township or part of township the Lieutenant-Governor in Council may impose such terms and conditions in adding the same or any part thereof to the Park as shall to him seem fit and proper. R.S.O. 1897, c. 46, s. 4.

May impose
terms and
conditions.

6. Except as hereinafter provided, no person shall locate, settle upon, use or occupy any portion of the Park. R.S.O. 1897, c. 46, s. 5.

Lands not to
be located or
settled upon.

7. The Park shall be under the control and management of the Department of Lands, Forests and Mines, and the Lieutenant-Governor in Council may make regulations for the following purposes:—

Control of
park.
Regulations.

- (a) The care, preservation, management and improvement of the Park, and of the watercourses, lakes, trees, shrubbery, minerals, natural curiosities and other matters therein contained;

Care and pre-
servation.

(b)

- (b) The controlling and regulating the level of the water in the rivers, streams and lakes of the Park, with the view of preventing damage to the trees and vegetation on the shores thereof; *New*
- Leaving lots for erection of buildings. (c) The lease for any term of years of such parcels of land in the Park as he deems advisable, for the construction of buildings for ordinary habitation, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the Park as a sanitarium or health or summer resort;
- Issuing timber licenses. (d) The issuing of licenses to cut timber within the limits of the Park in respect of timber berths heretofore sold, and for the improvement of the Park, and for firewood for the use of persons engaged in and about the Park;
- Mining. (e) The working of mines and the developing of mining interests within the limits of the Park, and the issuing of licenses or permits of occupation for the said purposes; but no lease, license or permit shall be made, granted or issued under this or the next two preceding clauses of this section which will in any way impair the usefulness of the Park for the purposes for which it is designed;
- Licensing shops and inns. (f) The issuing of licenses for shops, and for houses for the accommodation of visitors and places where trade and industries necessary for the accommodation of persons resorting to the Park may be carried on;
- Fires. (g) The prevention and extinguishment of fires;
- Preservation of game and fish. (h) The preservation and protection of game, fish, wild birds, and animals in the Park, and for the destruction of wolves, bears and other noxious or injurious or destructive animals;
- Trespassers. (i) The removal and exclusion of pedlars, travelling salesmen, and trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the Park without proper authority;

(j) The appointment of a Superintendent and Wardens, Rangers, or other officers to see to the carrying out of the provisions of this Act and the regulations made thereunder, and the prescribing of their powers and duties, and providing for their salaries or other remuneration, out of any moneys which may be appropriated for that purpose by the Legislature; Appointment of superintendent, wardens, etc.

(k) The imposition of penalties for any violation of the provisions of this Act or of the regulations made thereunder not exceeding in each case \$50 and costs, and in default of payment imprisonment for not more than three months; Penalties.

(l) And generally for all purposes which he may deem necessary to carry this Act into effect. R.S.O. 1897, c. 46, s. 6. General purposes.

8. Every such regulation after its publication for four consecutive weeks in the *Ontario Gazette* and in any other manner prescribed by the Lieutenant-Governor in Council shall have the like force and effect as if herein enacted, and shall be laid before the Assembly within fifteen days after its first meeting subsequent to the making thereof. R.S.O. 1897, c. 46, s. 7. Publication of regulations.

9. Carrying or using firearms or explosives within the Park, except as provided by the regulations, hunting with or without firearms or explosives, and trapping or spearing within the limits of the Park, except under special license for the killing of wolves, bears, wolverines, wild cats, foxes or hawks to be issued by the Minister upon the recommendation of the Superintendent, are hereby prohibited under a penalty not exceeding \$100 for each offence. R.S.O. 1897, c. 46, s. 8. Penalty for unauthorized use of firearms, hunting, etc.

10.—(1) Upon report by the Minister that beaver or other fur-bearing animals have increased to such an extent that they may be lessened in number without detriment to the Park or the purposes for which it was established, the Lieutenant-Governor in Council may authorize the taking of such animals, not exceeding the number specified in the Order, under the direction and supervision of the Superintendent of the Park. Killing of beaver, etc., on recommendation of Minister.

(2) The skins or furs of animals so taken shall be marked by the Superintendent with the words "Algonquin Park," and also by punching or perforating the same in such manner as may be prescribed by the Lieutenant-Governor in Council, and may be sold by the Minister, and the proceeds of the sale shall be applied towards defraying the expenses of the Marking of skins.

the Park, and the possession or sale of skins or furs so taken and marked shall be lawful, notwithstanding anything contained in any other Act or Regulation.

Penalty for unlawfully marking skin or fur.

(3) Every person who without lawful authority marks the skin or fur of any such animal in the manner described in subsection 2, or who has in his possession, or sells any such skin or fur knowing that the same has been so marked without lawful authority, in addition to any other penalty to which he may be liable, shall incur a penalty of \$200.

Penalty for unlawfully having possession of stamp or brand.

(4) Every person who without lawful authority has in his possession any stamp, punch or other instrument or thing by means of which any such skin or fur may be marked in the manner described in subsection 2, in addition to any other penalty to which he may be liable, shall incur a penalty of \$200.

Penalty for unauthorized fishing.

11.—(1) Fishing with net, trap, spear or night line in the waters within the Park is prohibited under a penalty not exceeding \$100 for each offence.

License to fish.

(2) No person shall fish within such waters with hook and line without a license therefor, and then only for the purpose of supplying food for visitors or officers of the Park or rangers or labourers therein employed by or under the control of the Superintendent, and no fish caught within the waters of the Park shall be sold, bartered or trafficked in, either within or outside its boundaries, under a penalty in either case not exceeding \$50 for each offence.

(3) Such licenses may be issued by the Minister, or by such other person as shall be authorized by the Lieutenant-Governor. R.S.O. 1897, c. 46, s. 9.

Power to arrest on view of offence.

12. The Superintendent or any Park Ranger or member of the Ontario Police Force, or other person appointed by the Lieutenant-Governor for the purpose, may, on view, without warrant or legal process, arrest and bring before a Justice of the Peace or before the Superintendent to be dealt with according to law, or he or they or the Superintendent may, on view, arrest and remove from the limits of the Park any person found violating the provisions of this Act or carrying or having in his possession a fishing net, trap, spear or night line, or firearm or other explosive, or other weapon or instrument for catching or killing fish, other than hook or line, or for the destruction of game or animals. R.S.O. 1897, c. 46, s. 10.

Seizure, confiscation and sale of weapons or instruments.

13.—(1) In any of the cases mentioned in the next four preceding sections any of such officers may seize, take possession

session of and retain or confiscate any such net, trap, spear, firearm, explosive, weapon or instrument, or any Justice of the Peace or Police Magistrate having jurisdiction in the district may direct or order the seizure, confiscation or sale thereof.

(2) The articles shall be sold in such manner as shall be provided by the regulations and the proceeds, after deducting the necessary expenses, shall be applied towards the expenses of maintaining the Park.

(3) An arrest, removal, seizure, confiscation or sale shall not relieve the offender from any other penalty to which he is liable under this Act or otherwise. R.S.O. 1897, c. 46, s. 11.

14.—(1) The Superintendent or any Park Ranger or any member of the Ontario Police Force may seize, take possession of, and confiscate or destroy any such net, trap, spear, explosive, weapon or instrument which he may find within the Park, whether the same is held or set out with intent to take or kill any animals or fish the taking or killing of which is forbidden by this Act, or otherwise, and may also seize and take possession of all firearms, furs, skins or peltries found within the Park, and the burden of proving that such furs, skins or peltries have not been taken or obtained contrary to law shall rest upon the person claiming the same or in whose possession they may be found.

Confiscating
weapons
unlawfully
used, etc.

(2) The Superintendent shall at once report any such seizure to the Minister, who may direct the confiscation of the articles seized or any of them and may direct that they be sold and the proceeds applied as is provided in section 13.

(3) For the purpose of searching for nets, traps, spears, firearms, explosives, weapons, instruments, furs, skins or peltries, the Superintendent, any Ranger, or any such Police Officer, may enter into any house, dwelling, structure or camp within the Park and may there search for the same without a search warrant, and shall have the same powers of seizure and confiscation as elsewhere within the Park. R.S.O. 1897, c. 46, s. 12.

15.—(1) No timber or wood shall be cut within the limits of the Park, except pine, spruce, hemlock, black and yellow birch, cedar, black ash and tamarack cut under the authority of a timber license issued under the provisions of *The Crown Timber Act*, or the regulations made thereunder, or by the authority of the Minister, or under the regulations made by the Lieutenant-Governor in Council for the government

Cutting
timber.

Rev. Stat.,
c. 82.

Proviso.

ment and maintenance of the Park, provided nevertheless that nothing herein shall have the effect of withdrawing the timber or wood, of the classes above specified, from any timber license nor shall anything herein prevent the operation of any Act or regulation made in respect of any timber license affecting the Park or the timber therein.

Interests under licenses for timber other than pine and renewals to cease after 30th April, 1930.

(2) All interest or claim of the holder or owner of a timber license heretofore or hereafter issued or renewed in or to any kind of timber in the Park except pine timber shall on and after the expiry of thirty years from the 30th day of April, 1900, forever cease and determine, and all the timber except pine shall become the property of His Majesty freed and discharged of and from any interest, charge or claim of the holder or owner of such timber license or any person claiming through or under him or any other person.

(3) Nothing in this section shall authorize the cutting of any timber except pine by the holder or owner of a timber license in the Park issued for a timber berth at the sale of which by the Crown the right to cut pine timber only was sold. R.S.O. 1897, c. 46, s. 13 (1); 63 V. c. 16, s. 1.

Rights of timber licensees.

(4) A timber license over or in respect of any land within the Park shall not entitle the holder thereof to exclusive possession of such land as against the Crown or its agents or servants, nor shall any such license exempt the holder thereof, his agents or employees, from the prohibitions relating to fishing or hunting or the carrying or using of firearms within the limits of the Park. R.S.O. 1897, c. 46, s. 13 (2).

Mining exploration.

16. Mining exploration or prospecting for minerals within the Park is prohibited, except under and in accordance with the provisions of the regulations. R.S.O. 1897, c. 46, s. 14.

Sale of intoxicating liquors within the park.

17. No license shall be issued for the sale of intoxicating liquors within the Park, and any intoxicating liquor found within the limits of the Park and held for the purpose of sale may be seized and destroyed by any Park Ranger or by any Constable or License Inspector having authority within the District of Nipissing, and every Ranger shall have all the powers and authority of a License Inspector for the purpose of enforcing therein the provisions of *The Liquor License Act* and of this Act. R.S.O. 1897, c. 46, s. 15.

Rev. Stat. c. 245.

Offences to which no special penalty attached.

18. Where no penalty is herein or otherwise provided, any person violating any provision of this Act shall incur a penalty not exceeding \$50, and in default of payment thereof shall be liable to imprisonment for a period not exceeding three months. R.S.O. 1897, c. 46, s. 16.

19. In addition to any penalty provided by this Act for the violation of any of its provisions, the offender shall be liable for all damages caused by him, and the same may be recovered in any court of competent jurisdiction. R.S.O. 1897, c. 46, s. 17. Offender's liability for damages.

20. A Park Ranger shall have all the power and authority of a member of the Ontario Police Force. R.S.O. 1897, c. 46, s. 10. Powers of Park Ranger.

21. The Superintendent shall, within the limits of the Park and for one mile from any part thereof, for the purposes of enforcing law and order and the provisions of this Act and the regulations, have all the powers, rights and privileges of a Police Magistrate, and shall have jurisdiction over and within the Park and the territory surrounding the same for the distance of one mile from any part thereof, unless and until otherwise provided by the Lieutenant-Governor in Council, or the Lieutenant-Governor in Council may appoint another person as Police Magistrate with such jurisdiction; but nothing in this section shall interfere with the jurisdiction of other Magistrates. R.S.O. 1897, c. 46, s. 18. Superintendent to have authority of police magistrate.

22. The Superintendent shall be *ex officio* a health officer for the Park and for the territory surrounding the same for the distance of one mile from any part thereof, and shall have all the powers and perform all the duties by *The Public Health Act*, or any other Act, conferred or imposed upon medical health officers or local boards of health; and all Park Rangers whether employed temporarily or otherwise, shall be *ex officio* sanitary inspectors under *The Public Health Act*, and shall have all the powers and perform all the duties conferred or imposed upon sanitary inspectors thereunder. R.S.O. 1897, c. 46, s. 19. Superintendent to be ex-officio a health officer. Rev. Stat. c. 248.

23. Nothing herein shall withdraw the territory comprising the Park or that within a mile from any part thereof from the operation of *The Ontario Game and Fisheries Act*, except as therein or herein otherwise provided. R.S.O. 1897, c. 46, s. 20. Territory not withdrawn from operation of 7 Edw. VII. c. 49.

24.—(1) The Superintendent may issue licenses to fit and proper persons to act as guides in conducting tourists and visitors into and through the Park, and any unlicensed person who acts as guide to any tourist or visitor shall incur a penalty not exceeding \$20 for each offence, and in default of payment shall be liable to imprisonment for a period not exceeding thirty days. Licenses to guides.

(2) The annual fee to be paid for a license shall not exceed one dollar.

(3) The Superintendent may cancel any such license upon proof of violation by the holder thereof of this Act or of the regulations. R.S.O. 1897, c. 46, s. 21.

Committal of offenders.

25. Any person arrested for violation of any of the provisions of this Act or of the regulations who is punishable upon summary conviction by a Justice of the Peace or Police Magistrate may be committed to the common gaol or to any lock-up within the Districts of Nipissing, Sudbury, Parry Sound or Muskoka, or the County of Renfrew, whichever may to the committing Justice or Magistrate appear to be the most convenient. R.S.O. 1897, c. 46, s. 22.

Imprisonment in default of payment of fine and costs.

26. In default of the payment of any penalty or costs by any person convicted of any offence under this Act, the offender may be committed to a common gaol or to a lock-up in the Districts of Nipissing, Sudbury, Parry Sound, or Muskoka, or in the County of Renfrew. R.S.O. 1897, c. 46, s. 23.

Who may try offences.

27. All prosecutions for any offence under this Act, not specifically otherwise provided for, may take place before any Police Magistrate or Justice of the Peace having jurisdiction in the District of Nipissing, or before the Superintendent, or other person appointed under the authority of this Act. R.S.O. 1897, c. 46, s. 24.

Application of fines.

28.—(1) One-half of every penalty imposed by or under the authority of this Act shall belong to His Majesty, and the other half when collected shall be paid over to the prosecutor or informant, together with any costs which he may have incurred and which may be collected.

(2) The Superintendent or Rangers or other of the Park employees shall not be entitled to a share of, or to participate in any penalty. R.S.O. 1897, c. 46, s. 25.

Application of 10 Edw. VII. c. 37.

29. Save where otherwise provided by this Act, the provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions and proceedings under this Act. R.S.O. 1897, c. 46, s. 26.

Repeal.

30. Chapter 46 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

CHAPTER 23.

An Act to establish a Provincial Park at Rondeau

Assented to 7th March, 1910.

SHORT TITLE, s. 1.	INTOXICATING LIQUORS PROHIB-
INTERPRETATION, s. 2.	ITED, s. 8.
LIMIT AND PURPOSES OF PARK,	HUNTING AND SHOOTING, s. 9.
s. 3.	GENERAL PENALTIES AND RECOVERY
SETTLEMENT IN, PROHIBITED, s. 4.	OF, SS. 10, 11.
MANAGEMENT OF, s. 5.	APPLICATION OF FINES, s. 12.
PUBLICATION OF REGULATIONS, s.	PROCEDURE, s. 13.
6.	REPEAL, s. 14.
TIMBER NOT TO BE CUT IN, s. 7.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Rondeau Provincial Park Act.*" R.S.O. 1897, c. 47, s. 1. Short title.

2. In this Act "Minister" shall mean the Minister of Lands, Forests and Mines. Interpreta-
tion.
"Minister,"

3. The tract of land, marsh and land covered with water hereinafter mentioned, that is to say, so much of the Rondeau Peninsula otherwise known as Pointe aux Pins, in the County of Kent, as is the property of the Province and which may be known and described as follows, namely, all that parcel of land, marsh and land covered with water, bounded on the north by the north limit of lot number 1 or said Pointe aux Pins and said limit produced easterly to the water's edge of Lake Erie, as shown on plan of survey by Provincial Land Surveyor Henry Lawe, dated September 8th, 1864, of record in the Department of Lands, Forests and Mines; on the east and south by the waters of said Lake Erie and on the west by the waters of the Harbour of Rondeau and the easterly breakwater pier at the entrance to said Harbour; excepting thereout nevertheless said lot number 1, on Pointe aux Pins containing 58½ acres,

as

as granted by Letters Patent to Isaac Swartout in 1872 and also that part of the Sand Beach, containing 15½ acres, dividing the Harbour of Rondeau from Lake Erie as vested in the Government of Canada for lighthouse purposes on June 21st, 1892, containing by admeasurement an area of land, marsh and land covered with water of 4,946 acres, more or less, is hereby reserved and set apart as a Public Park Forest Reservation and Health Resort for the benefit, advantage and enjoyment of the people of Ontario, subject to the provisions of this Act and of the regulations hereinafter mentioned and shall be known as "The Rondeau Provincial Park." R.S.O. 1897, c. 47, ss. 2 and 3.

Dedication of
land for park
purposes.

Lands not to
be located or
settled upon.

4. Except as hereinafter provided, no person shall locate, settle upon, use or occupy any portion of the Park. R.S.O. 1897, c. 47, s. 4.

Control of;
park
regulations.

5. The Park shall be under the control and management of the Department of Lands, Forests and Mines, and the Lieutenant-Governor in Council may make regulations for the following purposes:—

Care and
management.

(a) The care, preservation, management and improvement of the Park, and of the watercourses, lakes, trees, shrubbery, and other matters therein;

Leasing lots.

(b) The lease for any term of years of such parcels of land in the Park as he deems advisable, for the construction of buildings for habitation during the summer, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the Park as a sanitarium or health or summer resort;

Fires.

(c) The prevention and extinguishment of fires;

Licensing
shops, etc.

(d) The issuing of licenses for shops, and for houses for the accommodation of visitors, and places for the accommodation of persons resorting to the Park;

Preservation
of game and
fish.

(e) The preservation and protection of game and fish, of wild birds generally, and of any or all animals in the Park, and for the destruction of wolves, bears and other noxious or injurious or destructive animals;

(f)

- (f) The removal and exclusion of pedlars, travelling Trespassers. salesmen, and other trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the Park without proper authority;
- (g) The appointment of a Park Ranger to see to the car- Park ranger. rying out of the provisions of this Act and the regulations made thereunder; and defining his powers and duties, and providing for his salary or other remuneration, out of any money which may be appropriated by the Legislature for that purpose;
- (h) The imposition of penalties for any violation of Penalties. the provisions of this Act or of the regulations made thereunder, not exceeding in any case the sum of \$50 and costs, and in default of payment, imprisonment for not more than three months; and,
- (i) Generally, for all purposes which he may deem General purposes. necessary to carry this Act into effect. R.S.O. 1897, c. 47, s. 5; 5 Edw. VII. c. 5, s. 2.

6. Every such regulation, after publication for four consecutive weeks in the *Ontario Gazette*, and in any other manner that may be prescribed by the Lieutenant-Governor in Council shall have the like force and effect as if herein enacted, and shall be laid before the Assembly within fifteen days after its first meeting subsequent to the making thereof. R.S.O. 1897, c. 47, s. 6. Publication of regulations.

7. No timber or wood shall be cut within the limits of Cutting timber. the Park, except dead or fallen wood, or in clearing for roads or other Park purposes, or underbrushing in clearing and maintaining the Park as shall be provided for by regulation, and then only under the direction of the Ranger. R.S.O. 1897, c. 47, s. 7.

8. No license shall be issued for the sale of intoxicating Sale of intoxicating liquors within the park. liquors within the Park nor within one mile thereof, and any intoxicating liquor found within the limits of the Park may be seized and destroyed by the Ranger or by any constable or license inspector having authority within the County of Kent, and the Ranger shall have all the powers and authority of a License Inspector for the purpose of enforcing the pro-

Rev. Stat.
c. 245.

visions of *The Liquor License Act* and of this Act, within the limits of the Park, and shall for all purposes have the powers of a member of the Ontario Police Force. R.S.O. 1897, c. 47, s. 8.

Hunting of
game pro-
hibited.

9.—(1) No person shall at any time shoot, hunt, take or kill any partridge, prairie fowl, quail, woodcock, snipe, wild turkey, or other bird or fowl within the Park; nor shall anyone shoot, hunt, trap, take or kill any wild animal or bird in the Park, except foxes, skunks, weasels, owls, hawks or other noxious animals or birds, and as to such excepted animals and birds only after obtaining the authority in writing of the Ranger; but this shall not prevent or apply to shooting or taking wild duck or geese in the waters around and along the coasts of the Park during the lawful season, and in accordance with the regulations hereinafter authorized.

Regulation of
the killing of
birds near
the park.

(2) The Lieutenant-Governor in Council may make regulations as to the shooting, hunting, taking or killing within two miles of the Park or within Rondeau Harbour of any bird or fowl protected by the provisions of this Act.

Penalty.

(3) Any person offending against the provisions of this section or violating the provisions of such regulations shall for each offence incur a penalty not exceeding \$50 and not less than \$20. R.S.O. 1897, c. 47, s. 9.

Offences to
which no
special
penalty
attached.

10. Where no penalty is herein or otherwise provided, any person violating any provision of this Act shall incur a penalty not exceeding \$25, and in default of payment thereof shall be liable to imprisonment for a period not exceeding three months. R.S.O. 1897, c. 47, s. 10.

Liability of
offenders for
damages.

11. In addition to any penalty provided by this Act for the violation of any of its provisions, the offender shall be liable for all damages caused by him, and the same may be recovered in any court of competent jurisdiction. R.S.O. 1897, c. 47, s. 11.

Application
of fines.

12.—(1) One-half of every penalty imposed by or under the authority of this Act shall belong to His Majesty, and the other half when collected shall be paid over to the prosecutor or informant, together with any costs which he may have incurred and which may be collected.

(2) The Ranger shall not be entitled to a share of, or to participate in, any penalty. R.S.O. 1897, c. 47, s. 14.

13. Save where otherwise provided by this Act, the provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions and proceedings under this Act. R.S.O. 1897, c. 47, s. 15. ^{Application of 10 Edw. VII, c. 37.}

14. Chapter 47 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed. ^{Repeal.}

CHAPTER 24.

An Act respecting Appeals to His Majesty in His Privy Council.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short Title.

1. This Act may be cited as "*The Privy Council Appeals Act.*"

When appeals may be made to the King in Privy Council.

2. Where the matter in controversy in any case exceeds the sum or value of \$4,000, as well as in any case where the matter in question relates to the taking of any annual or other rent, customary or other duty, or fee, or any like demand of a general and public nature affecting future rights, of what value or amount soever the same may be, an appeal shall lie to His Majesty in His Privy Council; and, except as aforesaid, no appeal shall lie to His Majesty in His Privy Council. R.S.O. 1897, c. 48, s. 1.

Security to be given.

3. No such appeal shall be allowed until the appellant has given security in \$2,000, to the satisfaction of the Court appealed from, that he will effectually prosecute the appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is confirmed. R.S.O. 1897, c. 48, s. 2.

Execution to be stayed.

4. Upon the perfecting of such security, unless otherwise ordered, execution shall be stayed in the original cause. R.S.O. 1897, c. 48, s. 3.

Practice of Court of Appeal to apply.

Rev. Stat. c. 51.

5. Subject to rules to be made by the Judges of the Supreme Court, the practice applicable to staying executions upon appeals to the Court of Appeal shall apply to an appeal to His Majesty in His Privy Council. R.S.O. 1897, c. 48, s. 4; 62 V. (1), c. 2, s. 1.

6. A Judge of the Court of Appeal shall have authority to approve of and allow the security to be given by a party who intends to appeal to His Majesty in His Privy Council, whether the application for such allowance be made during a sittings of the Court, or at any other time. R.S.O. 1897, c. 48, s. 5. Approval of security.

7. The preceding sections shall not apply to an appeal to His Majesty in His Privy Council from a judgment of any Court on a reference under *The Constitutional Questions Act*. R.S.O. 1897, c. 48, s. 6. Preceding sections not to apply to certain Privy Council Appeals, 9 Edw. VII., c. 52.

8. Costs awarded by His Majesty in His Privy Council upon an appeal shall be recoverable by the same process as costs awarded by the Court of Appeal. R.S.O. 1897, c. 48, s. 7. Costs.

9. Chapter 48 of the Revised Statutes of Ontario, 1897, and all amendments thereto, are repealed. Repeal.

CHAPTER 25.

An Act respecting the Supreme Court of Canada
and the Exchequer Court of Canada.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short Title.

1. This Act may be cited as "*The Dominion Courts Act.*"

Supreme Court
and Exchequer
Courts of
Canada.

R.S.C., cc.
139, 140.

2. The Supreme Court of Canada and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the provisions of the Acts of the Parliament of Canada, known as *The Supreme Court Act* and *The Exchequer Court Act*, shall have jurisdiction in cases of:—

Controversies
between Canada
and Ontario.

(a) Controversies between the Dominion of Canada and Ontario;

Controversies
between
Ontario and
certain other
Provinces.

(b) Controversies between any other Province of the Dominion which may have passed an Act similar to this Act and Ontario;

Cases involving
the validity of
Acts of Canada
or Ontario.

(c) Actions or proceedings in which the parties thereto by their pleadings have raised the question of the validity of an Act of the Parliament of Canada, or of an Act of the Legislature of Ontario, when in the opinion of a Judge of the Court in which the same are pending such question is material; and in such case the said Judge shall, at the request of the parties, and may without such request, if he thinks fit, order the case to be removed to the Supreme Court of Canada, in order to the decision of such question. R.S.O. 1897, c. 49, s. 1.

3. In any action respecting property or civil rights, whether for damages or for specific relief, the judgment of the Court of Appeal for Ontario shall be final except in the following cases:—

When judgment of Court of Appeal final.

- (a) Where the title to real estate or some interest therein is in question;
- (b) Where the validity of a patent is affected;
- (c) Where the matter in controversy in the appeal exceeds the sum or value of \$1,000, exclusive of costs;
- (d) Where the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights;
- (e) Where the special leave of the Court of Appeal or the Supreme Court of Canada to appeal to such last mentioned Court is granted. R.S.O. 1897, c. 49, s. 2.

4. In case sittings of any Court of the Dominion of Canada, or of any judge thereof, are appointed to be held in any City, Town, or place in which a Court House is situated, such Court or Judge shall have in all respects the same authority as a Judge of the High Court in regard to the use of the Court House and other buildings or apartments set apart in the County for the administration of justice. R.S.O. 1897, c. 49, s. 3.

Authority of Judges of the Court of Exchequer as to use of Court House, etc.

5. Chapter 49 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

Repeal.

CHAPTER 26.

The Statute Law Amendment Act, 1910.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Rev. Stat.
c. 97, s. 15a
subs. 2
amended.

1. Subsection 2 of section 15a added to *The Act respecting Coroners* by section 29 of the *Statute Law Amendment Act, 1908*, passed in the 8th year of the reign of His Majesty, Chapter 33, is repealed and the following substituted therefor:

Coroner shall
certify to
stenograph-
er's fees.

(2) The Coroner shall certify what he deems a reasonable allowance for the fees of the stenographer, and the same shall be paid on the order of the Coroner in the same way as is provided by section 14 of this Act in regard to medical practitioners.

7 Edw. VII.,
c. 23, s. 54
repealed.

2. Section 54 of *The Act to incorporate the Bracebridge and Trading Lake Railway Company*, as enacted by section 46 of the *Statute Law Amendment Act, 1907*, passed in the 7th year of the reign of His Majesty, chapter 23, is repealed and the following substituted therefor:

Extension of
time for
commencement
and completion
of
Bracebridge
and Trading
Lake Ry.

54. The railway shall be commenced on or before the 1st day of May, 1911, and finally completed within five years thereafter.

9 Edw. VII.,
c. 87, ss. 3
and 4
amended.

3. Sections 3 and 4 of *The Act to regulate the means of Egress from Public Buildings*, passed in the 9th year of His Majesty's reign, chapter 87, is amended by striking out the words "involving the use of a combustible film" where they occur in the said sections.

Cinematograph
shows.

9 Edw. VII.,
c. 83, s. 2
amended.

4. Section 2 of *The Private Detectives Act*, passed in the 9th year of His Majesty's reign, chaptered 83, is repealed, and the following substituted therefor:

2. No person shall engage in or advertise the business of a private detective, or indicate upon any letter, document or paper that he is engaged in the business of a private detective without having first obtained a license from the Provincial Treasurer.
- Private
detectives
to be licensed.

5.—(1) *The Ontario Insurance Act* is amended by adding thereto after section 149, section 149a, as follows:—

Rev. Stat.
c. 203
amended.

- 149a. Where a contract of insurance of the person provides either in terms or in effect that the contract shall be indisputable or incontestable, it shall not be disputable or contestable on the ground that the assured committed suicide, unless in express terms it is so stipulated by the contract and is so stated in the application on which the contract is founded.
- Suicide shall
not render
contract
contestable
an incontest-
able policy
unless so
stated.

(2) This section shall come into effect on the 1st day of January, 1911.

Operation of
section sus-
pended.

6. The Preamble of the Act passed in the 9th year of His Majesty's reign, Chaptered 147, being *An Act to incorporate The Tillsonburg and Southern Counties Radial Railway Company*, is hereby amended by striking out the word "East" in the 19th line thereof and substituting the word "West" therefor, and by inserting after the word "Walsingham" in the 22nd and 23rd lines, the words "from the Town of Tillsonburg through the Townships of Middleton and Houghton, in the County of Norfolk, to the Village of Fairground, in the said Township of Houghton"; and section 7 of the said Act is hereby amended by striking out the word "East" in the 9th line thereof and substituting therefor the word "West," and by adding after the word "Walsingham" in the 13th line thereof, the words "from the Town of Tillsonburg through the Townships of Middleton and Houghton in the County of Norfolk to the Village of Fairground in the said Township of Houghton."

9 Edw. VII.,
c. 147
amended.

7.—(1) *The Judicature Act* is amended by adding the following section:

Rev. Stat.
c. 51
amended.

- "104b. In any action brought to recover damages or other compensation for or in respect of bodily injury sustained by any person, the Court or a Judge or any person who by consent of parties, or otherwise, has power to fix the amount of such damages or compensation, may order that the person in respect of whose injury damages or compensation is sought shall submit to be examined by a duly qualified medical practitioner
- Physical
examination
of plaintiff
by medical
practitioner.

who

who is not a witness on either side, and may make such order respecting such examination and the costs thereof as he may think fit. The medical practitioner named in such order shall be selected by the Court or Judge making the order, and may afterwards be a witness on the trial unless the Judge before whom the action is tried otherwise directs." Con. Rule Sup. Court, No. 462.

Rev. Stat.
c. 51, s. 122,
subs. 1, c'd
amended.
Rules of
court.

(2) Clause *b* of subsection 1 of section 122 of *The Judicature Act* is amended by adding thereto the following words: "and in the County, District and Surrogate Courts."

Rev. Stat.
c. 51, s. 126
repealed.

(3) Section 126 of *The Judicature Act* is repealed.

Rev. Stat.
c. 51, s. 74
amended.

(4) Section 74 of the said Act is amended by adding thereto the following clause:

Appeals
under
10 Edw. VII.,
c. 60.

(11) From a judge of the County or District Court under section 85 of *The Registry Act*.

Rev. Stat.
c. 51
amended.

(5) The following section is added to *The Judicature Act*:—

Transfer of
actions to
county or
district
court.

186*a*. Where a plaintiff has brought an action of the proper competency of a County or District Court in the High Court the action may, by leave of a Judge, be transferred at any time before the trial to the County or District Court on such terms including payment of the additional costs incurred by the defendant owing to the action having been brought in the High Court as to the Judge may seem just.

9 Edw. VII.,
c. 38
amended.

8. Section 8 of *The Replevin Act* is repealed and the following section substituted therefor;

Jurisdiction
of county
and district
courts in
replevin.

8. The County and District Courts shall have jurisdiction in replevin as is provided in *The County Courts Act*. R.S.O. 1897, c. 66, s. 7; 9 Edw. VII., c. 38.

Rev. Stat.
c. 187
amended.

9. *The Act respecting Innkeepers* is amended by adding thereto the following section;

Innkeeper,
etc. not to
keep wearing
apparel of
servant or

6. No tavern keeper or boarding house keeper shall keep the wearing apparel of any servant or labourer in pledge for a greater sum than \$6

and

and on payment or tender of such sum, or of any less sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such servant or labourer; but this is not to apply to other property of the servant or labourer. R.S.O. 1897, c. 157, s. 6.

labourer in
pledge for
more than \$6.

10. Section 3 of *The Married Women's Real Estate Act* is amended by inserting after the word "estate," in the 7th line, the following words: "and may also execute a certificate of discharge of mortgage of any real estate."

Rev. Stat.
c. 165
amended.

Married
woman may
discharge
mortgage.

11. Section 6 of *The Guarantee Companies Securities Act* is amended by striking out the word "shall" in the 5th line thereof and substituting therefor the word "may."

9 Edw. VII.,
c. 67
amended.

12.—(1) It shall be lawful for the High Court of Justice or a Judge thereof upon the application of the Provincial Archivist and upon such terms and conditions as may be thought fit, to order that the Records, Minute Books, papers and documents mentioned in the Schedule to this Act, now in the custody of the High Court at Osgoode Hall or such of them as the Court or Judge shall think proper shall be delivered by the Clerk of Records and Writs to the said Provincial Archivist for the purpose of being calendered and kept in the Bureau of Archives.

Certain
records and
documents to
be transferred
from High
Court to the
Provincial
Archivist.

(2) The description and date of all Records, Minute Books, papers and documents the delivery of which is desired shall be set forth in a list thereof to be produced to the Court or Judge on the application for the Order.

Particulars
to be set
out in
application.

(3) A receipt for all Records, Minute Books, papers and documents received by the Provincial Archivist shall be signed by him and delivered to the Clerk of Records and Writs who shall file the same in his office.

Receipt to
be given by
Archivist.

13. *The County Judges Act* is amended by adding thereto the following section:

9 Edw. VII.,
c. 29
amended.

16a. In lieu of the fees otherwise payable to him under *The Surrogate Courts Act* and for services performed under *The Mechanics and Wage Earners Lien Act*, *The Woodmans Lien for Wages Act* and *The Act for Protecting the Public Interests in Rivers, Streams and Creeks* there shall be paid to every Judge and Junior Judge of a

Allowance to
Judges of
district
courts.
10 Edw. VII.,
c. 31.
10 Edw. VII.,
c. 69.
10 Edw. VII.,
c. 70.
Rev. Stat.
c. 142.

District Court the sum of \$500 per annum, and the fees heretofore payable in money under any of the said Acts shall be payable in stamps and shall form part of the Consolidated Revenue Fund. 6 Edw. VII., c. 19, s. 16.

6 Edw. VII.,
c. 59, s. 5,
amended.
Quorum of
General
Hospital
Board.

14. Section 5 of *The Toronto General Hospital Act, 1906*, is amended by striking out the word "nine" in the last line thereof and substituting the word "five" therefor.

6 Edw. VII.
c. 55, s. 39,
subs. 7
amended.

15. Subsection 7 of section 39 of *The University Act, 1906*, is amended by adding after the word "them" in the fifth line the words "or of any other University or College federated with the University of Toronto, but in such last mentioned case at the cost and expense of such federated University or College."

Procedure
when public
officer in-
terested in
question
before him.

16. Wherever by any general or special Act of the Legislature of Ontario any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting, and no other person is by law empowered to do or perform such act, matter or thing, then he or any interested person may apply, upon summary motion, to a Judge of the High Court in Chambers, who shall have power to appoint some disinterested person to do or perform the act, matter or thing in question.

Rev. Stat.
c. 205, s. 31
repealed.

17. Section 31 of *The Loan Corporations Act* is hereby repealed.

Rev. Stat.
c. 203,
s. 150 (2)
amended.

18.—(1) Subsection 2 of section 150 of *The Ontario Insurance Act* is hereby amended by striking out the words "No corporation" in the first line of the said subsection, and by inserting in lieu thereof, the following words:

"No corporation, company, association, or society shall insure the life of an infant, whose age at the time of insurance is not at least one year, nor"

This subsection shall come into effect on the 1st day of January, 1911.

Rev. Stat.,
c. 203,
amended.

(2) Clause 36 of Section 2 of *The Ontario Insurance Act* as amended by Section 1 of the Act passed in the 7th year of His Majesty's reign, Chaptered 36, is further amended by adding thereto the following:

This

This clause shall in the case of an assured dying hereafter apply to insurance of the person effected on or before the 13th day of April 1897.

19. Section 3 of the Act passed in the 9th year of His Majesty's reign and chaptered 64, intituled *An Act to amend The Pharmacy Act*, is repealed, and the following section substituted therefor:

9 Edw. VII.,
c. 64, s. 8,
repealed.

Rev. Stat.,
c. 176.

3. Schedule A of *The Pharmacy Act* is amended by adding after the words "carbolic acid" in Part I. the words "exceeding a 5 per cent. solution," and by striking out the word "hellebore" in Part II.

The Pharmacy
Act, Sched.
A amended.

20. The cash grant of \$2,000 per mile given by subsection 1 of section 1 of The Act passed in the 62nd year of Her Majesty Queen Victoria, chaptered 23, to the Ontario Hudson's Bay & Western Railway, between Missinabie Station on the Canadian Pacific Railway and Tidewater at the mouth of Moose River on James Bay, a distance not exceeding 240 miles, renewed by section 42 of *The Statute Law Amendment Act, 1907*, for a period of three years from the passing of said *The Statute Law Amendment Act, 1907*, for that portion of said railway between Missinabie Station and the National Transcontinental Railway, a distance not exceeding 115 miles, is further renewed for the period of two years from the passing of this Act, for that portion of the railway not exceeding 115 miles between the said Missinabie Station and the said National Transcontinental Railway.

Ontario,
Hudson's
Bay and
Western
Railway.

21. The County Council of the County of York may pass a by-law as provided in section 2 of *The Act for the Improvement of Public Highways* and may exercise the powers and perform the duties provided by the said Act with respect to that part of the county included in the Electoral Districts of East York and West York and may issue debentures for the purposes provided by the said Act.

County Council
of York
may adopt
road system
for part of
County.

7 Edw. VII.,
c. 16.

22. If the County Council passes a by-law under section 1 of the last mentioned Act adopting the system of road improvement for the Electoral Districts of East York and West York only, the rate for the payment of any debentures issued for that purpose shall be levied and collected upon the property liable to assessment in the Electoral Districts of East York and West York, and no part of the cost of such system shall be borne by the municipalities included in the Electoral District of North York.

North York
not to be
included.

10 Edw. VII.
c. 118.

23. *The Act respecting the City of London* passed at the present session is amended by striking out of the preamble the words, "That the said Council did on the 20th day of December, A.D. 1909, pass certain By-laws Numbered 3,453, 3,454, 3,455, 3,456, 3,457, 3,458, 3,459 and 3,460, to provide for raising the moneys in respect of the sewers in the said By-laws mentioned and for levying rates to meet the debentures to be issued therefor", and by striking out of Schedule "A" to the said Act all reference to the said By-laws Numbered 3,453, 3,454, 3,455, 3,456, 3,457, 3,458, 3,459 and 3,460, and such amendments shall be made in the said Act in the annual volume of the Statutes.

Ontario
Government
office at
London.

24. Notwithstanding any provision in *The Act respecting the Public Works of Ontario*, it is hereby declared that any sums appropriated by the Legislative Assembly for the reconstruction of the Ontario Government Office Building, London, England, and furnishing the same, may be expended and paid by the Provincial Treasurer, notwithstanding the building is under lease and not vested in His Majesty, represented by the Minister of Public Works.

2 Edw. VII.
c. 25, amend-
ed.

25. Section 5 of *The Act respecting Aid to Certain Railways*, passed in the 2nd year of His Majesty's reign and Chaptered 25, as amended by Section 49 of *The Statute Law Amendment Act*, 1907, is further amended by striking out the figures "1910" where they occur in the said amended section and substituting therefor the figures "1911."

2 Edw. VII.
c. 94, s. 7.
Boards of
Education
Act amend-
ed.

26.—(1) Section 7 of *The Boards of Education Act* is repealed and the following section substituted therefor:

7.—(1) Where the office of an elected member becomes vacant from any cause before the expiration of the term for which he was elected, a majority of the remaining elected members present shall at the first regular meeting after the vacancy occurs, elect some duly qualified person to fill the vacancy, and the person so elected shall hold office for the remainder of the term for which his predecessor was elected.

(2) In case of an equality of votes the elected member having the largest number of votes at his election shall have a second or casting vote.

(3) In cities where Trustees are elected by wards, then the vacancy shall be filled by an election in the ward in which the vacancy occurs.

2. Subsection 3 of section 17 of the said Act is repealed and the following subsection substituted therefor: 9 Edw. VII., c. 94, s. 17, amended.

- (3) In case of an equality of votes the elected member who has received the largest number of votes at his election shall have a second or casting vote.

27. Section 4 of the Act passed in the 6th year of His Majesty's reign, Chaptered 51, is hereby repealed and the following substituted therefor: 6 Edw. VII., c. 51, s. 4, repealed.

4. The Inspector shall have full power, in his discretion, to order the owner or possessor of any bees dwelling in box or immovable frame hives, to transfer them to movable frame hives within a specified time, and in default the Inspector may destroy, or order the destruction of, such hives and the bees dwelling therein. Foul brood among bees.

28. Section 7 of the Act passed in the 9th year of His Majesty's reign, Chaptered 86, is hereby repealed and the following substituted therefor: 9 Edw. VII., c. 86, s. 7, repealed.

7. On and after the first day of January, 1911, no person shall act or be allowed to act as chief maker in any creamery or cheese factory who does not hold a certificate of qualification, said certificate to be issued as follows: Qualification of chief makers in creameries and cheese factories.

(a) By the Dairy School of the Ontario Agricultural College, or by the Eastern Dairy School;

(b) By the Minister on the general grounds of competency, as recommended by an Advisory Board to be composed of the Chief Dairy Instructors, the President of the Dairymen's Association of Eastern Ontario, the President of the Dairymen's Association of Western Ontario and the Director of Dairy Instruction;

Provided, however, that upon the written authority of the Superintendent of either Dairy School any person may be allowed to act as chief maker in any creamery or cheese factory for a period not to exceed two years after he has passed his examinations in the Dairy School.

29.—(1) Section 2 of the Act passed in the 7th year of His Majesty's reign, Chaptered 32, is amended by adding the following subsection: 7 Edw. VII., c. 32, s. 2, amended.

- (2) The said Board of Examiners shall have power to enforce the provisions of this Act and to prosecute for any breach or violation thereof.

7 Edw. VII.
c. 32, s. 6.

- (2) Section 6 of the said Act is amended by inserting immediately after the word "Ontario" in the 11th line thereof the words:

or who has a certificate from any other Province of the Dominion shall be granted a provisional certificate, such certificate to be good for one year.

7 Edw. VII.
c. 9, s. 25.
amended.

- 30.** Section 25 of *The Supplementary Revenue Act, 1907*, is amended by adding thereto the following subsections:

Where oil
and natural
gas found in
same well.

- (2) Where oil in paying quantities and natural gas in considerable volume are found in the same well, such gas shall not (subject to the provisions of subsection 3) be subject to the tax imposed by this Act.

- (3) Upon the application of any person who alleges that there is a demand for such natural gas and has offered to purchase the supply and to compensate the owner for it and for any stoppage or diminution in the flow of oil consequent thereon, or who alleges that the escape of such natural gas should be shut off and that he is willing to compensate the owner therefor and for any stoppage or diminution in the flow of oil consequent thereon, and satisfies the Lieutenant-Governor in Council that the price which has been offered and compensation proposed are reasonable, the Lieutenant-Governor in Council may direct that if the owner within and at such times and upon such terms and conditions as the Lieutenant-Governor in Council shall prescribe does not supply such natural gas or allow the same to be taken by the applicant or shut the same off, as the case may be, such natural gas shall be subject to the tax imposed by this Act, and if the owner does not comply with and conform to such direction to the satisfaction of the Lieutenant-Governor in Council such natural gas shall be subject to the tax accordingly.

- (4) Upon the report of the Minister of Lands, Forests and Mines, that it appears to him that oil and
natural

natural gas exist in considerable quantities in any described locality, and that it is practicable to pump the oil therefrom without wasting the gas upon proper precautions being observed in drilling wells therein and operating same, the Lieutenant-Governor in Council may by proclamation set apart such locality or any part thereof, and may make regulations as to the methods to be adopted in drilling or sinking wells for oil or gas therein, and as to the precautions to be taken for preventing the waste of such gas, and thereafter no person shall drill or sink wells for oil or gas in the locality described in the proclamation, except under and subject to such regulations, and except upon notice in writing to the Minister of his intention to sink such wells.

- (5) The Lieutenant-Governor in Council may at any time and from time to time revoke any such direction, proclamation or regulations.

31.—(1) Section 23 of *The Burlington Beach Act*, ^{7 Edw. VII. c. 22, s. 23 amended.} passed in the 7th year of His Majesty's reign, chaptered 22, is amended by adding thereto the following words: "provided also that for the purpose of taking a vote of the municipal electors on any by-law submitted to such electors under the provisions of *The Liquor License Act* the township of Saltfleet shall be deemed to be separate and distinct from Burlington Beach aforesaid." ^{Burlington Beach.}

(2) Section 21 of the said Act is hereby repealed and the ^{7 Edw. VII. c. 22, s. 21.} following section substituted therefor:

21. No action shall be brought against the Commission- ^{Burlington Beach.} ers personally for anything done or omitted to be done under this Act without the approval of the Lieutenant-Governor in Council.

32.—(1) Subsection 1 of section 4 of *The General Sessions Act* is amended by striking out the words "Except in the County of" in the first line, and substituting therefor the words "Except in the Counties of Carleton, Middlesex, Wentworth and". ^{9 Edw. VII. c. 30. General Sessions Act amended.}

(2) The following is added as subsection 3 to section 4 of the said Act:—

- (3) In the Counties of Carleton, Middlesex and Wentworth two such sittings shall be held in each year, to commence on the first Tuesday in June and December.

(3) Clause (a) of section 6 of the said Act is amended by striking out the word "October" in the third line, and substituting therefor the word "November," and clause (b) of the said section is amended by striking out the word "first" in the first line and substituting therefor the word "third," and clause (i) of the said section is amended by striking out the word "June" in the second line and substituting therefor the word "April," and clause (e) is amended by striking out the last line and substituting therefor the words "month of June and the fourth Tuesday of the month of November," and clause (g) is amended by striking out the word "third" in the first line and inserting in lieu thereof the word "second."

(4) This section shall not come into effect until the 1st day of August, 1910.

Rev. Stat.
c. 248, s. 29
amended.

33. Section 29 of *The Public Health Act* is repealed and the following substituted therefor:—

Powers of
Provincial
Board on de-
fault of local
authorities.

(1) Where a local board of health has not been established as required by Section 48 of this Act, or where a local board of health or any officer thereof has in the opinion of the Minister refused or neglected to act with sufficient promptness or efficiency in carrying out the provisions of this Act or any order or regulation of the Provincial Board of Health, or to take such efficient measures as might remove any unsanitary condition or abate any nuisance, the Minister may direct the chief health officer of the Province to carry out such measures as may be authorized by this Act or by any order or regulation made thereunder.

(2) The expenses so incurred shall be certified by the Minister, and shall be a debt due by the Municipality, and upon presentation of such certificate the Treasurer of the municipality shall pay the same out of any funds of the municipality in his hands.

EL

(3) Nothing in this section contained shall prevent the municipal council from recovering from any individual or corporation any money paid by the municipal corporation under this section as provided by section 61 of this Act.

Rev. Stat.
c. 284, s. 13
subs. 1
ame. ded.

34. Subsection 1 of section 13 of *The Line Fences Act*, Chapter 284, of the Revised Statutes of Ontario, 1897, is amended by inserting after the word "premises" in the first line the words "or hears the appeal at a place other than the County town."

35. Subsection 4 of section 63 of *The Mining Act of Ontario* is amended by adding thereto the following words: ^{8 Edw. VII. c. 21, sec. 68, subs. 4, amended.} "nor except by leave of the Commissioner after the validity of the claim has been adjudicated upon by the Recorder or by the Commissioner, or after it has been on record for sixty days and has already had a dispute entered against it; but this amendment is not retroactive and shall not apply to any case where such validity has heretofore been adjudicated upon by the Recorder or by the Commissioner."

36.—(1) The Lieutenant-Governor in Council may commute the fees payable to a Registrar of Deeds or Local Master of Titles in any County or District whether both offices are held by one person or otherwise for a fixed sum each year, provided that such sum shall not exceed the income which the said Registrar or Local Master would have derived from fees during such year, and the fees so commuted shall on or before the 15th day of January in each year be paid over to the Treasurer of the Province in the case of a District for the use of the Province, and in the case of a County or City to be subject to such division between such County or City and the Province as the Lieutenant-Governor in Council may by Order-in-Council direct. ^{Commutation of Registrars' Fees.}

(2) Where such Registrar or Local Master holds office for part of a year he or his executors or administrators shall be entitled to the just proportion of such commuted fixed sum.

37. The times fixed for the commencement and completion of the Toronto, Lindsay and Pembroke Railway are hereby extended for three and seven years respectively beyond the respective periods fixed therefor by the Act of Incorporation passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 105, as amended by *The Statute Law Amendment Act, 1907*, section 44. ^{Toronto, Lindsay and Pembroke Railway. Extension of times for commencement and completion. 62 V., c. 105.}

38. Section 6 of *The Act Respecting Aid to certain Railways* passed in the 63rd year of the reign of Her late Majesty Queen Victoria, chaptered 29, as amended by *The Statute Law Amendment Act, 1907*, section 45, is further amended by striking out the figures "1909" and substituting the figures "1912" therefor. ^{63 V., c. 29, s. 6, amended.}

39. *The Horticultural Societies Act* is amended by adding to section 19 the following:— ^{Horticultural Societies Act, amended.}

(1) Any amount voted by the Legislature in addition to the amounts stated above in this section shall be divided

among

among the societies in the same proportion and in the same manner as prescribed in subsections (a) and (b) of this section and such amendment shall be made in the said Act in the Annual Volume of the Statutes.

Rev. Stat.,
c. 177, s. 5,
amended.

40.—(1) *The Ontario Anatomy Act* is amended by repealing section 5 as amended, and substituting the following therefor:

5. The Lieutenant-Governor in Council may appoint a General Inspector of Anatomy for the Province and Local Inspectors in such places as may be deemed advisable and may make Regulations defining the duties of the General Inspector and imposing additional duties upon the Local Inspectors and may fix the fees to be received by the General and Local Inspectors for services performed under this Act and under the said Regulations and such Regulations may from time to time be varied.

Violations of
Regulations
punishable.

(2) Violations of the Regulations from time to time passed under the preceding subsection shall be deemed violations of this Act and shall be punishable accordingly.

Section 14
repealed.

(3) Section 14 of the said Act as amended is repealed.

Rev. Stat.,
c. 290,
amended.

41.—(1) *The Act to encourage the Destroying of Wolves* and the amendments thereto shall apply to the destruction of the gray timber wolf and not to any other kind of wolf.

(2) Where by the said Act it is required that the head of the wolf killed shall be produced it shall hereafter be requisite that the skin and head of the wolf shall be produced and the said Act shall be taken to be amended accordingly.

(3) This section shall come into force and take effect on the 1st day of September, 1910.

Repeal of
Rev. Stat.,
c. 213, ss. 14-
18 not to
have effect.

42. Notwithstanding the repeal of sections 14 to 18 of *The Act Respecting Cemetery Companies* by section 211 and Schedule E. of *The Ontario Companies Act* passed in the seventh year of His Majesty's reign, chaptered 34, the said sections 14 to 18 shall for all purposes be deemed to have been and hereafter to be in force as if they had not been included in the said repealing section and schedule.

9 Edw VII.,
chap. c. 19,
sec. 8
amended.

43. Section 8 of *The Power Commission Amendment Act, 1909*, is amended by adding thereto the following words:—

“So

"So far as such action seeks to declare invalid or set aside any contract or by-law in this section mentioned or referred to, but the plaintiff in any such action shall nevertheless be at liberty to continue his action so as to claim the damages (if any) which he, in the judgment of the Court, may personally and individually be entitled to recover, and for this purpose, he may amend his claim and statement of claim, confining his demand to such damages only.

44. Subsection 3 of section 7 of *The Ontario Summary* ^{10 Edw. VII. c. 37, s. 7.} *Convictions Act* passed this Session is repealed and the following subsection substituted therefor:

- (3) The sums allowed for costs shall be stated in the conviction or order, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, such costs shall extend to and include costs and charges of the distress, of the commitment, and of conveying the defendant to prison; but it shall not be necessary to include them in the amount mentioned in the conviction or order, but the amount thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the gaoler, and in the case of a distress the person by whom the same are payable shall be entitled on demand to a statement of the amount thereof.

And such amendment shall be made in the said Act in the Annual Volume of the Statutes.

45.—(1) Subsection 3 of section 78 of *The Mining Act* ^{8 Edw. VII. c. 21, s. 78.} *of Ontario* is amended by adding thereto the following words: amended.
"The report shall show in detail the names and residences of the men who performed the work and the dates upon which each man worked in its performance."

(2) Form 14 in the schedule to the said Act is amended by striking out the words "hereby notify you that I (c) have performed thereon the mining operations required by The Mining Act of Ontario as follows:" and substituting therefor the following:—"comprising the lands known and described as

hereby state and report that I (c) have in conformity with The Mining Act of Ontario performed or caused to be performed thereon days work, not before reported, consisting of

and

and that the names and residences of the men who performed the said work and the dates upon which each man worked in its performance are as follows:”

(3) Subsection 4 of said section 78 is amended by striking out all the words after “sufficient” and substituting therefor the following:—“Such certificate, in the absence of fraud or mistake, shall be final and conclusive evidence of the due performance of the work therein certified, but where it has been issued in mistake or obtained by fraud the Commissioner shall have power to revoke and cancel it upon the application of the Crown or an officer of the Bureau of Mines or any person interested. The question of the due performance of work shall not be appealable beyond the Commissioner.”

(4) Rule 12 of section 164 of said Act is amended by striking out the words “in roast heaps” in the second line thereof and the words “or otherwise” in the third line thereof and substituting in each case the words “salamander or other material.”

Rev. Stat.,
c. 109, ss. 9,
10 and 11
repealed.

Jurisdiction
of District
Courts.

Saving of
pending
actions.

9 Edw. VII.,
c. 28.

9 Edw. VII.,
c. 26, s. 42.
Acceptance
and invest-
ment of
funds given
to Province
for charitable
or educa-
tional
purposes

46. Sections 9, 10 and 11 of *The Unorganized Territory Act* are repealed, but this shall not affect any action now pending in a District Court for a cause of action which but for the said sections would have been beyond the jurisdiction of the District Court so as to prevent such action from being tried and disposed of in such Court, and every such action may be proceeded with and shall be heard and determined and the District Court shall have jurisdiction with respect to the same in the same manner and to the same extent as if this section and sections 20, 21 and 42 of *The Law Reform Act, 1909*, had not been passed.

47. Section 42 of *The Statute Law Amendment Act, 1909*, is amended by adding after the word “half-yearly” in the fifth line, the following words, “in the case of a charitable object and five per cent. interest payable half-yearly in the case of an educational object.”

SCHEDULE.

(a) Minute Books and Records of the old Courts of Common Pleas from the year 1790 to the year 1796, with all the papers accompanying the same or belonging thereto and other miscellaneous papers down to and inclusive of the year 1800.

(b) Such other documents, books and records down to and inclusive of the year 1825, as the Court or Judge may think proper.

(c) A bound volume of the *Patriot* newspaper for the year 1838.

(d) Several Blue Books for the year 1850 and following years.

CHAPTER 27.

An Act to amend The Judicature Act.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsections 1 and 2 of section 5, and section 19 of *The Judicature Act* as enacted by sections 1 and 2 of the Act passed in the ninth year of His Majesty's reign, intituled *An Act to amend the Judicature Act*, are repealed and the following substituted therefor:—

9 Edw. VII,
c. 27, s. 2, re-
pealed.

5.—(1) Where a Judge of the Court of Appeal or of the High Court resigns his office or is appointed to any other Court, he may at any time within eight weeks after such resignation or appointment give judgment in any cause, action or matter tried by or heard before him before such resignation or appointment, as if he had not so resigned or been appointed.

Judge may
give judgment
within eight
weeks after
resignation
or promotion.

(2) Where such Judge has heard a cause, action or matter jointly with other Judges in a Divisional Court or in the Court of Appeal he may at any time within the period mentioned in subsection 1 take part in the giving of judgment therein by such Court as if he were still a member thereof.

May take
part in
judgment of
Court.

(3) Where such Judge does not take part in the giving of judgment or where a Judge by whom a cause, action or matter has been heard in a Divisional Court or in the Court of Appeal is absent from illness or any other cause or dies, the remaining judges of the Court, or, where the action, cause or matter is in the Court of Appeal and there is a difference of opinion a majority of them may give judgment as if the Judge who has so resigned or been appointed or is dead were still a member of the said Court and taking part in the judgment, and in the case of absence as if such absent Judge were present and taking part in the judgment.

When major-
ity of Court
may give
judgment.

CHAPTER 28.

An Act to amend The Judicature Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Rev. Stat., c.
51, s. 3,
sub. 3; 3
Edw. VII.,
s. 1. amended

1. Subsection 3 of section 3 of *The Judicature Act* as enacted by section 1 of the Act to amend the Judicature Act passed in the Third Year of His Majesty's Reign, chaptered 8, is hereby amended by adding thereto the following words:

Number of
Judges of
High Court.

“With three Judges attached to each division as herein-after mentioned and of two additional Judges who shall not be attached to any division.”

CHAPTER 29.

An Act respecting the Judges of the Supreme Court
of Judicature for Ontario.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Extra Judicial Services* Short title.
Act."

2. Every Judge of the Supreme Court shall be paid out
of the Consolidated Revenue Fund the annual sum of one
thousand dollars, payable quarterly, as compensation for the
services which he is called on to render by any Provincial
legislation in addition to his ordinary duties. R.S.O. 1897,
c. 52, s. 1; 62 V. (2), c. 11, s. 33 (6); 2 Edw. VII., c. 12,
s. 9. Annual pay-
ment of \$1,000
to Judges of
Supreme
Court of
Judicature.

3. Chapter 52 of the Revised Statutes of Ontario, 1897, Repeal.
and all amendments thereto are repealed.

CHAPTER 30.

An Act respecting the County Courts and District Courts.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	PLEADING AND PRACTICE, s. 32.
STYLE OF THE COURTS, s. 2.	COSTS WHERE NO JURISDICTION,
JUDGES, ss. 3-5.	s. 33.
CLERKS, ss. 6-13.	ENFORCING JUDGMENTS, ETC., s.
SPECIAL EXAMINERS OF HIGH	34.
COURT TO BE OFFICERS OF	POWER TO ENFORCE RULES, s. 35.
COUNTY COURTS, s. 14.	ACCOUNTS AND INQUIRIES, ss. 36,
SITTINGS, ss. 15-20.	37.
JURISDICTION, ss. 21-23.	APPEALS, ss. 38-46.
REMOVAL OF ACTIONS INTO HIGH	TARIFF OF COSTS, s. 47.
COURT, s. 29.	REPEAL, s. 48.
VENUE FOR CERTAIN ACTIONS, ss.	COMMENCEMENT OF ACT, s. 49.
30, 31.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The County Courts Act.*" R.S.O. 1897, c. 55, s. 1.

A court for each county and district. **2.** There shall be in and for every county and district a Court of Record, to be styled in counties, the County Court of the County (*or* United Counties) of (naming the county or united counties) and in districts the District Court of the District of (naming the district). R.S.O. 1897, c. 55, s. 2.

JUDGES.

Judges. **3.** Subject to the provisions of *The County Judges Act*, the Court shall be presided over by the Judge or Junior Judge or by the acting or the Deputy Judge. R.S.O. 1897, c. 55, s. 3.

9 Edw. VII.
c. 29.

[As to Judges being Local Judges of the High Court, see Cap. 51, sec. 185; and as to Judges exercising authority of Master in Chambers and local Masters see Consolidated Rules of Supreme Court of Judicature.]

4. In case of the illness or absence of such Judges the Court may be presided over by a Judge of any other County or District Court, or by one of his Majesty's Counsel learned in the law, upon the request in writing of the Judge or of the Attorney-General for Ontario. R.S.O. 1897, c. 55, s. 4.

*Illness or
absence of
County
Judge.*

5. Every such Court shall be provided with a suitable seal to be approved of by the Lieutenant-Governor in Council.
New.

Seal.

CLERKS.

6. There shall be a Clerk of every such Court, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1897, c. 55, s. 5.

*The Lieuten-
ant-Governor
to appoint
clerks.*

7. The Clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant-Governor in Council may direct. R.S.O. 1897, c. 55, s. 6.

*Clerks to give
security.*

8.—(1) The Clerk shall keep his office in the Court House or, if there is no room available therein, then at such place in the county or district town as the Judge may direct.

*Place of
office.*

(2) The Clerk of the County Court of the County of Essex may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council. R.S.O. 1897, c. 55, s. 7.

*In the County
of Essex.*

9. Except on holidays and subject to Rules of Court as to office hours during vacations, the office of the Clerk shall be kept open from 10 o'clock in the forenoon until 4 o'clock in the afternoon, except on Saturday, when the office shall be kept open until 1 o'clock in the afternoon. R.S.O. 1897, c. 55, s. 8.

Office hours.

10. The Clerk shall, whenever required so to do by the Crown Attorney, and at least once in every three months, deliver to him, verified by the affidavit of the Clerk, a full account in writing of all fines levied by order of the Court. R.S.O. 1897, c. 55, s. 9.

*Clerk to ren-
der accounts
to Crown
Attorney.*

[As to return of fees by County Court Clerks see Cap. 16, sec. 29, and as to payment of proportion to Provincial Treasurer see Cap. 18.]

11. The Clerk shall tax costs, subject to an appeal to the Judge. R.S.O. 1897, c. 55, s. 10.

*Clerk to tax
costs.*

Clerk not to draw or advise on documents.

12. The Clerk shall not, for fee or reward, draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office and for which a fee is not expressly allowed by the tariff. R.S.O. 1897, c. 55, s. 11.

Clerk of the Peace to act *pro tem* in case of the death, etc., of the County Court Clerk.

13. In the event of the death, resignation or removal from office of the Clerk, the Clerk of the Peace shall, *ex-officio*, be the Clerk until another person is appointed and assumes the duties of the office, and every Clerk of the Peace while Clerk of the Court, shall, except in the County of York, be also *ex-officio* Deputy Clerk of the Crown and Registrar of the Surrogate Court, if the Clerk held that office; and in case the Clerk was Local Registrar, the Clerk of the Peace, while he holds the office of Clerk of the Court, shall be *ex-officio* Local Registrar. R.S.O. 1897, c. 55, s. 12.

SPECIAL EXAMINERS.

Special examiners of High Court to be officers of County Court.

14. The special examiners of the High Court shall be officers of the County and District Courts, and shall possess the like powers in County and District Court cases as those possessed by them in High Court cases. R.S.O. 1897, c. 55, s. 13.

SITTINGS.

Trial sittings of County Courts.

9 Edw. VII.
c. 29.

15.—(1) Except in the Counties of Carleton, Middlesex, Wentworth and York, and subject to the provisions of *The County Judges Act*, sittings of the County Courts for the trial of issues of fact and assessments of damages, with or without a jury, shall be held semi-annually, to commence on the second Tuesday in June and December. R.S.O. 1897, c. 55, s. 15.

In Counties of Carleton, Middlesex and Wentworth.

(2) In the Counties of Carleton, Middlesex and Wentworth two such sittings shall be held in each year, to commence on the first Tuesday in June and December.

In County of York.

(3) In the County of York four such sittings shall be held in each year, to commence on the first Tuesday in December and March, and on the second Tuesday in May and September. R.S.O. 1897, c. 55, s. 16.

County Court sittings without a jury in April and October.

(4) Except in the County of York, there shall be sittings of every County and District Court on the first Tuesday in April and October in each year for the trial of issues of fact and assessments of damages without a jury. R.S.O. 1897, c. 55, s. 17.

Sittings of District Courts.

16. Sittings of the District Courts for the trial of issues of fact and assessments of damages, with or without a jury, shall be held at,

(a) Bracebridge on the second Tuesday of June and November;

(b) Fort Frances on the first Tuesday of April and November;

(c) Gore Bay on the last Tuesday of May and the third Tuesday of October;

(d) Kenora on the first Tuesday of June and the second Tuesday of November;

(e) North Bay on the second Tuesday of June and the fourth Tuesday of November;

(f) Parry Sound on the first Tuesday of June and December;

(g) Port Arthur on the first Tuesday of May and the second Tuesday of November;

(h) Sault Ste. Marie on the second Tuesday of June and November; and at

(i) Sudbury on the first Tuesday of June and November. R.S.O. 1897, c. 109, s. 21; 62 V. (2), c. 14, s. 7; 7 Edw. VII., c. 25, s. 4; 8 Edw. VII., c. 36, s. 4.

17. The sittings of the County Courts provided for by subsections 1 and 2 of section 15 and the sittings of the District Courts, provided for by section 16 shall not open earlier than one o'clock in the afternoon of the first day of the sittings. R.S.O. 1897, c. 55, s. 18.

Sittings on first day to commence at one o'clock in the afternoon.

18. Besides the regular sittings, additional sittings for trials without a jury may be held at such time as the Judge may direct or appoint; and such sittings shall be held as often as may be requisite for the due despatch of business. R.S.O. 1897, c. 55, s. 19.

Additional non-jury sittings.

19. The Judges of any County or District Court may sit separately and concurrently for the despatch of the business of a sittings. *See* R.S.O. 1897, c. 55, s. 20.

Concurrent sittings for trial of jury and non-jury cases.

20.—(1) Where the Judge who is to hold the sittings is unable to hold the same at the time appointed, the Sheriff, or in his absence the Deputy Sheriff, shall adjourn the Court by proclamation to an hour on the following day to be named by him, and so from day to day until the Judge is able to hold the Court, or until he receives other directions from the Judge or from the Provincial Secretary.

Adjourning Courts owing to Judge being unable to hold Court.

Provincial
Secretary to
be notified.

(2) The Sheriff shall forthwith notify the Provincial Secretary of the adjournment. R.S.O. 1897, c. 55, s. 21.

JURISDICTION.

Agreements
as to trial of
High Court
actions in
County or
District Court.

21.—(1) In an action in the High Court, the County or District Court of the county or district, the county or district town of which is named as the place of trial, shall have jurisdiction for the purpose of trial only, where all the parties agree thereto by a memorandum in writing signed by them or their solicitors and filed in the proper office at or before the time of setting the action down for trial, but all proceedings in the action subsequent to the trial shall be had, and all costs, fees and disbursements, including those of the trial, shall be the same as if the trial had taken place at a sittings of the High Court.

(2) Where an action has been entered for trial in the High Court the parties may by filing the memorandum before the action has been tried transfer the same for trial only by such County or District Court. 6 Edw. VII. c. 20, s. 1.

Jurisdiction.

22.—(1) The County and District Courts shall have jurisdiction in:

- (a) Actions arising out of contract, expressed or implied, where the sum claimed does not exceed \$800;
- (b) Personal actions, except actions for criminal conversation and actions for libel, where the sum claimed does not exceed \$500;
- (c) Actions for trespass or injury to land where the sum claimed does not exceed \$500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$500, and the sum claimed does not exceed that amount;
- (d) Actions for the obstruction of or interference with a right of way or other easement where the sum claimed does not exceed \$500, unless the title to the right or easement is in question, and in that case also where the value of the land over which the right or easement is claimed does not exceed that amount. *New.*
- (e) Actions for the recovery of property, real or personal, including actions of replevin and actions of

- of detainee where the value of the property does not exceed \$500;
- (f) Actions for the enforcement by foreclosure or sale or for the redemption of mortgages, charges or liens, where the sum claimed to be due does not exceed \$500;
- (g) Partnership actions where the joint stock or capital of the partnership does not exceed in amount or value \$2,000;
- (h) Actions by legatees under a will for the recovery or delivery of money or property bequeathed to them where the legacy does not exceed in value or amount \$500, and the estate of the testator does not exceed in value \$2,000;
- (i) All other actions for equitable relief where the subject matter involved does not exceed in value or amount \$500; and
- (j) Actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$500.

(2) Where a defendant intends to dispute the jurisdiction of the Court on the ground that the action, though otherwise within the proper competence of the Court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject matter involved or, in the cases mentioned in clauses (g) and (h) of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value \$2,000, or the estate of the testator exceeds in value \$2,000, he shall in his appearance state that he disputes the jurisdiction of the Court and the ground upon which he relies for disputing it; and, in default of his so doing, unless otherwise ordered by the Court or a Judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question.

Dispute of jurisdiction by defendant.

(3) Where the notice mentioned in the next preceding subsection is given, the plaintiff may on praecipe require all papers and proceedings in the action to be transmitted to the proper office of the High Court in the county or district in which the action was brought, and it shall be the duty of the Clerk of the County or District Court forthwith to transmit the same to such office.

Plaintiff may transfer to High Court.

Action transferred.

(4) When the papers and proceedings so transmitted are received at the proper office of the High Court, the action shall *ipso facto* be transferred to the High Court.

At instance of defendant.

(5) Where the plaintiff does not exercise the right conferred by subsection 3 the defendant may after the expiration of ten days from the entry of appearance apply to a Judge of the High Court for an order transferring the action into that Court. *New.*

Terms of order of transfer.

(6) Where the Court or a Judge makes an order under the provisions of subsection 2 allowing the defendant to question the jurisdiction of the Court the Court or Judge may direct the action to be transferred into the High Court on such terms as to costs and otherwise as may be deemed just.

Scale of costs in action transferred.

(7) Where an action is transferred into the High Court under the provisions of this section, if the plaintiff is awarded costs, unless otherwise ordered by the Court or a Judge, they shall be taxed according to the scale of the High Court, whether or not the action be in fact within the proper competence of the County or District Court. 9 Edw. VII. c. 28, s. 21.

Where set-off or counterclaim is beyond jurisdiction.

23.—(1) Where the defendant pleads a set-off or counterclaim either party, within six days after the plaintiff has delivered his reply to such defence of set-off or his defence to the counterclaim, may apply to a Judge of the High Court for an order transferring the action and counterclaim into the High Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the Court.

Judge's order transferring.

(2) The Judge, if satisfied that the set-off or counterclaim involves matter which exceeds the jurisdiction of the Court, may order the transfer upon such terms as to costs and otherwise as he may deem just.

Jurisdiction established where no order of transfer made.

(3) If no such application is made within the time limited, or if an application so made has been refused, the jurisdiction of the Court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. *See R.S.O. 1897, c. 55, s. 30.*

Proceedings to be continued in same form.

24. Where an action has been transferred into the High Court or into another County or District Court under any provision of this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the Court into which it has been so transferred. *R.S.O. 1897, c. 55, s. 34; 4 Edw. VII. c. 10, s. 12.*

25. Where it appears in an action brought in a County or District Court that such Court has not cognizance thereof, but that the Court of some other County or District has jurisdiction to try the same, the Judge before whom the action is pending may, at any time before or during the trial thereof, order the action to be transferred to such other County or District Court upon such terms as to costs and otherwise as he may deem just. 4 Edw. VII. c. 10, s. 11.

Transfer of action to County or District Court having jurisdiction.

26. Prohibition shall not lie in respect of an action or counterclaim which may be transferred under the provisions of this Act into the High Court or from one County or District Court into another County or District Court. *New.*

Prohibition not to lie when case transferred.

27.—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the Court, he may by writing signed by him and filed, upon such terms as the Judge deems proper as to costs and otherwise, abandon the excess and in such case the plaintiff shall forfeit such excess, and shall not be entitled to recover it in any other action. R.S.O. 1897, c. 55, s. 26.

Abandonment of so much of claim as in excess of jurisdiction.

(2) A defendant shall have the like right in respect of his set-off or counterclaim. *New.*

[As to transfer of actions from High Court to County or District Court see *The Judicature Act.*]

[As to repeal of *Rev. Stat., c. 109, ss. 9, 10, 11, conferring extended jurisdiction upon certain district courts, see 10 Edw. VII., c. 26, s. 46.*]

28. The Court shall, as regards all causes of action within its jurisdiction, have power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, and shall give such and the like effect to every ground of defence or counter-claim, equitable or legal, by the same mode of procedure, and in as full and ample a manner as might and ought to be done in the like case by the High Court. R.S.O. 1897, c. 55, s. 28.

Relief which may be granted by Courts.

29. Except in the cases mentioned in subsections 3, 5 and 6 of section 22 and in section 23, no action shall be removed by order of certiorari, or otherwise, into the High Court unless the debt or damages claimed amount to upwards of \$100, and then only on affidavit and by leave of a Judge of the High Court, if it appears to the Judge fit to be tried in the High Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he deems just. R.S.O. 1897, c. 55, s. 33.

In what cases and on what conditions causes shall be removable.

Venue for
certain
actions.

30.—(1) Unless by consent of the parties, or unless the place of trial is changed, actions under clauses (c) and (d) of section 22, shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause (g) of that section shall be brought and tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause (h) of that section shall be brought and tried in the court of the county or district where letters probate or of administration have issued, or where the deceased resided at the time of his death.

Actions for
recovery of
real property.

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the property sought to be recovered is situate. R.S.O. 1897, c. 55, s. 36.

Where action
against Judge
of Court may
be brought.

31. An action by or against a Judge shall not be brought in the court of which he is a Judge, but shall be brought in the court of a county or district adjoining that in which such Judge resides. R.S.O. 1897, c. 55, s. 37.

Procedure in
Courts.

Rev. Stat.
c. 51.

32. Subject to the provisions of *The Judicature Act* and to Rules of Court, the practice and procedure of the High Court shall apply to the County and District Courts. R.S.O. 1897, c. 55, s. 40.

COSTS WHERE NO JURISDICTION.

Costs where
action fails
for want of
jurisdiction.

33. Where the plaintiff fails to recover judgment by reason that the Court has not jurisdiction, the Court shall nevertheless have jurisdiction over the costs of the action or other proceeding, and may order by and to whom the same shall be paid. R.S.O. 1897, c. 55, s. 42.

ENFORCING JUDGMENTS AND ORDERS.

Power to
enforce
judgments
and orders.

34. Every County and District Court shall have the like power as is possessed by the High Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the High Court; and the same shall have the like force and effect as writs and process issued out of the High Court. See R.S.O. 1897, c. 55, ss. 43 and 44.

PUNISHMENT FOR CONTEMPT OF COURT.

Power to
punish for
contempt.

35. Every County and District Court may punish by fine or imprisonment, or by both, for any wilful contempt of or resistance to its process, rules or orders; but the fine shall

shall not in any case exceed \$100, nor shall the imprisonment exceed six months. R.S.O. 1897, c. 55, s. 45.

ACCOUNTS AND INQUIRIES.

36.—(1) Where it is proper to direct a reference, the same may be made to any officer to whom a reference may be directed by the High Court or to the Clerk of the Court. References.

(2) Where the Judge of the Court is Local Master the reference may be made to himself but no fees shall be charged by him on such reference. R.S.O. 1897, c. 55, s. 46.

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party, or solicitor and client, shall be according to the County Court tariff. R.S.O. 1897, c. 55, s. 47. Costs of reference.

37.—(1) In an action in a County or District Court the Judge shall have the same powers with regard to the making of an order of reference as may be exercised by a Judge of the High Court in an action therein. R.S.O. 1897, c. 62, s. 37; 9 Edw. VII. c. 27, s. 3 (121f). Powers of reference.

(2) An appeal in like manner and within the same time as in like cases in actions in the High Court shall lie from the report on the reference to the Judge of the County or District Court in chambers, who shall upon such appeal have the same power as may be exercised by a Judge in like cases in the High Court. R.S.O. 1897, c. 62, s. 38; 9 Edw. VII. c. 27, s. 3. (121f). Appeal from referee.

(3) An appeal shall lie from any order, judgment or decision of the Judge of a County or District Court and from the report upon a reference made under subsection 2 of section 36 to a Divisional Court of the High Court and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under the provisions of section 39. R.S.O. 1897, c. 62, s. 39; 9 Edw. VII. c. 27, s. 3 (121f). Appeal from judgment on appeal.

(4) Nothing in this section shall empower the Judge of a County or District Court to refer any proceeding to which His Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of His Majesty. R.S.O. 1897, c. 62, s. 46, *part*; 9 Edw. VII. c. 27, s. 3 (121g). This provision not to apply to Crown.

(5) Consolidated Rules 648 to 653 or any Rules substituted for them shall apply to references under this section. 9 Edw. VII. c. 27, s. 3 (121h). Application of Gen. Rules 648-653.

APPEALS.

Meaning of
"party to a
cause or
matter," and
"appellant."

38. The terms "party to a cause or matter," and "appellant," hereinafter used, shall include a person suing or being sued in the name of another, and a person on whose behalf or for whose benefit an action is prosecuted or defended. R.S.O. 1897, c. 55, s. 50.

Appeals to
Divisional
Courts.

39.—(1) Any party to a cause or matter may appeal to a Divisional Court of the High Court from any judgment directed to be entered at or after the trial.

Moving for
new trial.

(2) A motion for a new trial shall be deemed an appeal and shall be made to a Divisional Court. R.S.O. 1897, c. 55, s. 51; 9 Edw. VII. c. 28, s. 21.

Appeals from
decision of
Judge.

40.—(1) An appeal shall also lie to a Divisional Court at the instance of any party to a cause or matter from

(a) Every decision of a Judge under any of the powers conferred upon him by any of the Rules of Court or by any statute, unless provision is therein made to the contrary;

(b) Every decision or order made by a Judge in Chambers under the provisions of the law relating to interpleader proceedings, the examination of debtors, attachment of debts and proceedings against garnishees;

(c) Every decision or order in any cause or matter disposing of any right or claim, if the decision or order is in its nature final and not merely interlocutory; and from

Appeal as to
costs.

(d) Any decision or order of a Judge whether pronounced or made at the trial or on appeal from taxation or otherwise, which has the effect of depriving the plaintiff of County Court costs on the ground that his action is of the proper competence of the Division Court or of entitling him to County Court costs on the ground that the action is not of the proper competence of the Division Court. 4 Edw. VII. c. 10, s. 13.

Exception
where Judge
is *persona*
designata.

(2) This section shall not apply where jurisdiction is given to the Judge as *persona designata*. R.S.O. 1897, c. 55, s. 52.

[As to appeals where Judge is *persona designata*. See 9 Edw. VII. c. 46, sec. 4.]

41. An appeal may be had, notwithstanding that judgment has been signed. R.S.O. 1897, c. 55, s. 53. Appeal after judgment signed.

42.—(1) The Judge shall, at the request of the appellant, certify under his hand to the proper officer of the High Court the pleadings in the cause and all motions or orders made, granted or refused therein, and his judgment or decision, and, where a trial has been had, his charge to the jury, if any, the evidence and all objections and exceptions thereto, or to his charge, and all other papers in the cause affecting the question raised by the appeal. R.S.O. 1897, c. 55, s. 55. Pleadings, etc., to be certified.

(2) The Judge shall be required to certify only the pleadings, motions, orders, affidavits, evidence and other material, necessary for the full understanding of the matter in appeal, together with his judgment or decision. R.S.O. 1897, c. 55, s. 56. Certifying proceedings under ss. 40 or 41.

43. Subject to the next following section, any Judge of the County or District Court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he may deem just. Con. Rule 794. Staying proceedings on appeal.

44.—(1) The appeal shall be set down for argument at the first sittings of a Divisional Court which commences after the expiration of thirty days from the judgment, order or decision complained of. R.S.O. 1897, c. 55, s. 57. Setting down appeals.

(2) Subject to Rules of Court a Divisional Court, or a Judge of the High Court, notwithstanding that the Judge of the County or District Court has not certified the pleadings and other papers, or that they have not been filed in the High Court, may extend the time for setting down the appeal or for giving notice of setting down or for doing any act or taking any proceeding in or in relation to the appeal; and may, if the certificate is incomplete or incorrect, direct the same to be amended or to be sent back to the Judge for amendment. 4 Edw. VII. c. 10, s. 14. Extension of time for appeal.

45.—(1) The Divisional Court shall have all the powers and duties as to amendment and otherwise of the Judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the Court, or as may be directed. Powers to amend and receive further evidence.

(2) Such further evidence may be given without special leave as to matters which have occurred after the date of the judgment, order or decision complained of.

(3) Except as provided by subsection 2, upon an appeal from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only and not without the special leave of the Court. Con. Rule 498.

Order of
Divisional
Court on
appeal.

46.—(1) On an appeal the Divisional Court may set aside the judgment and may direct any other judgment to be entered, or may direct a new trial to be had, and make such other order as to costs and otherwise as appears just. R.S.O. 1897, c. 55, s. 54.

(2) The decision of the Divisional Court shall be certified by the Registrar to the Clerk of the Court with whom the judgment or order appealed from was entered, who shall thereupon cause the same to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon, as if the decision had been given in the Court below. Con. Rule 818.

TARIFF OF COSTS.

Tariff of costs
for counsel
and solicitors
c. 32.

47.—(1) The Board of County Judges appointed under *The Division Courts Act*, may frame a tariff of costs to be allowed to solicitors and counsel in respect of actions, matters and proceedings in the County and District Courts.

Rev. Stat.
c. 51.

(2) The Board shall certify to the Judges authorized to make Rules under *The Judicature Act*, any tariff so framed, or any alteration thereof; and the Judges may approve, disallow or amend such tariff or alteration; and such tariff or alteration when approved, shall have the same force and effect as if made under that Act by the Judges approving the same. R.S.O. 1897, c. 55, s. 60.

REPEAL.

Repeal.

Rev. Stat., cc.
51, 55 and 109.

48. *The County Courts Act* and all amendments thereto, and sections 5 to 8 and 12 to 21, and section 23 of *The Unorganized Territory Act*, and all amendments thereto and sections 121f, 121g, and 121h of *The Judicature Act*, enacted by section 3 of the Act passed in the 9th year of His Majesty's reign, chaptered 27, are repealed.

[As to repeal of R.S.O., c. 109, ss. 9-11, see 10 Edw. VII., c. 26, s. 46.]

Commence-
ment of Act.

49. This Act, except sections 38 to 46, shall not come into force until the first day of August, 1910.

CHAPTER 31.

An Act respecting the Surrogate Courts.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	REFERENCE OR REMOVAL OF CASES
INTERPRETATION, s. 2.	TO HIGH COURT, ss. 32, 33.
CONSTITUTION OF THE COURTS,	APPEALS TO THE COURT OF AP-
ss. 3-5.	PEAL, s. 34.
JUDGES, ss. 6-9.	PROCEDURE TO OBTAIN PROBATE,
SURROGATE CLERK AND REGIS-	ss. 35-51.
TEARS, ss. 10-18.	COPIES OF WILLS, ETC., s. 52.
JURISDICTION AND POWERS OF	ADMINISTRATION OF ESTATES, ss.
COURTS, ss. 19-27.	53-72.
TRIALS BY JURY, s. 28.	ESTATES OF SMALL VALUE, s. 73.
SITTINGS, s. 29.	ANCILLARY PROBATES, ETC., s. 74.
WITNESSES AND EVIDENCE, ss.	FEES AND COSTS, ss. 75-80.
30, 31.	REPEAL, s. 81.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Surrogate Courts Act*." R.S.O. 1897, c. 59, s. 1. Short title.

INTERPRETATION.

2. In this Act:

Interpreta-
tion.

(a) "Administration" shall include all letters of administration of the effects of deceased persons whether with or without the will annexed, and whether granted for general, special or limited purposes; "Adminis-
tration."

(b) "Common form business" shall mean the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a Surrogate Court when the contest is terminated, and all business of a non-contentious nature to be taken in a Surrogate Court "Common
form busi-
ness."

Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration;

- "County." (c) "County" shall include Provisional Judicial District;
- "County Court." (d) "County Court" shall include District Court;
- "Matters and causes testamentary." (e) "Matters and causes testamentary" shall include all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;
- "Will." (f) "Will" shall include a testament, and all other testamentary instruments of which probate may be granted. R.S.O. 1897, c. 59, s. 2.

SURROGATE COURTS.

A Surrogate Court to be in each County.

3. There shall be in and for every County a Court of Record to be styled "The Surrogate Court of the County (or united Counties or District) of———" (inserting the name of the County or United Counties or District). R.S.O. 1897, c. 59, s. 3.

Courts to have seals.

4. Every such Court shall be provided with a suitable seal to be approved of by the Lieutenant-Governor. R.S.O. 1897, c. 59, s. 4.

Sittings, where held.

5. The sittings of the Court shall be held in the county town and shall be presided over by the judge thereof. R.S.O. 1897, c. 59, s. 5.

JUDGES.

Judge to be appointed by Lieutenant-Governor-in-Council.

6.—(1) The Judge of the Surrogate Court shall be appointed by the Lieutenant-Governor in Council and shall hold office during good behaviour and residence in the County for which he is appointed, and shall be subject to be removed by the Lieutenant-Governor in Council for inability, incapacity or misbehaviour established to his satisfaction. *New.*

(2) Every appointment of a Surrogate Court Judge heretofore made by the Lieutenant-Governor in Council is hereby declared to be as valid as if this section had been enacted at the time of his appointment. *New.*

7. The Judge of a County Court appointed before the 7th day of April, 1896, or where there are more Judges than one the Senior Judge appointed before that day shall continue to be *ex-officio* Judge of the Surrogate Court for the County. R.S.O. 1897, c. 59, s. 6, *part*.

Certain Judges of County Courts to be ex-officio Judges of Surrogate Courts.

8.—(1) In case of the illness or absence or at the request of the Judge of the Surrogate Court of any County or District, any Judge who has authority to preside over the County or District Court of such County or District may act as Judge of the Surrogate Court.

Illness, absence or vacancy in office of Judge.

(2) In case of a vacancy in the office of Judge of the Surrogate Court, a Judge of the County or District Court of the County or District may act as Judge of the Surrogate Court, or if there be no such Judge of the County or District Court, or none present in the County or District, or able to act, any Judge of any other County or District Court may so act upon the written request of the Attorney-General for Ontario.

(3) A Judge of the County or District Court, while so acting, shall have all the powers and privileges and may perform all the duties of the Judge of the Surrogate Court. See R.S.O. 1897, c. 59, s. 6; 61 V., c. 14, s. 1.

Acting Judge when entitled to fees.

(4) Except in the case of a vacancy, where a Judge so acts he shall not be entitled to the fees unless with the consent of the Judge of the Surrogate Court. 61 V. c. 14, s. 2.

(5) Where a Judge of a County Court who is also Judge of the Surrogate Court vacates his County Court Judgeship, unless the Lieutenant-Governor in Council otherwise directs, he shall thereby vacate his Judgeship of the Surrogate Court. 3 Edw. VII. c. 7, s. 11.

Resignation of County Judge to include Judgeship of Surrogate Court.

9. Every Judge of a Surrogate Court, before entering upon the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

Oath of Judge.

"I, _____, do swear that I will truly and faithfully, according to the best of my skill and knowledge, execute the duties, powers and trusts of Judge of the Surrogate Court of the County (or United Counties or District), of _____
So help me God."

R.S.O. 1897, c. 59, s. 7.

SURROGATE

SURROGATE CLERK AND REGISTRARS.

Surrogate
Clerk to be
appointed—
his duties.

10. There shall be an officer, to be called the Surrogate Clerk, who shall be deemed an officer of the High Court, and shall be appointed by the Lieutenant-Governor in Council. 7 Edw. VII. c. 59, s. 8.

Registrar.

11. There shall be a Registrar for every Court who shall be appointed by the Lieutenant-Governor in Council. *See* 7 Edw. VII. c. 23, s. 3.

Oath of
Registrar.

12. Every Registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

"I, _____, do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the _____, and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1897, c. 59, s. 11.

Security to be
given by
Registrars.

9 Edw. VII.,
c. 5.

13. Every Registrar, before entering upon the duties of his office, shall furnish such security as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act* relating to the giving of security shall apply to such security. R.S.O. 1897, c. 59, s. 12.

Registrar's
office.

14.—(1) The Registrar shall keep his office in the Court House of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the Judge directs.

Registrar of
Essex.

(2) The Registrar of the Surrogate Court of the County of Essex may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council. R.S.O. 1897, c. 59, s. 13.

Office to be a
depository for
the wills of
living persons.

15. The office of the Registrar shall be a depository for all wills of living persons given to him for safe keeping, and the Registrar shall receive and keep the same upon payment of such fees and under such regulations as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 13 (1), *part*.

Registrars to
preserve tes-
tamentary in-
struments,
papers, etc.

16. The Registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted and all other papers used in any

matter

matter in his Court, subject to such regulations as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 14.

17. On the third day of every month, or oftener if required by the Surrogate Court Rules, every Registrar shall transmit by mail to the Surrogate Clerk a list, in such form and containing such particulars as may be prescribed by such Rules, of the grants of probate and administration made by his Court up to the last day of the preceding month, and also a copy, certified by him to be a correct copy, of every will to which the same relate, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1897, c. 59, s. 15.

Registrars to transmit to Surrogate Clerk list of probates, &c.

18. Neither the Surrogate Clerk nor a Registrar shall for fee or reward draw or advise upon any will, or upon any paper or document connected with the duties of his office, for which a fee is not expressly allowed to him by the tariff. R.S.O. 1897, c. 59, s. 16.

Surrogate Clerk and Registrars not to take fees for drawing or advising on certain documents.

[For returns by Registrars of Surrogate Courts, see Chap. 16, sec. 29.]

JURISDICTION AND POWERS OF THE SURROGATE COURTS.

19. Subject to the provisions of *The Judicature Act*, all jurisdiction and authority, voluntary and contentious, in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, shall be exercised in the name of His Majesty, in the several Surrogate Courts. R.S.O. 1897, c. 59, s. 17.

Testamentary jurisdiction to be exercised by the Surrogate Courts.

20. Every Surrogate Court shall have full power, jurisdiction and authority:

Powers and jurisdiction of Surrogate Courts.

(a) To issue process and hold cognizance of all matters relating to the granting probate of wills and letters of administration, and to grant probate of wills and letters of administration of the property of persons dying intestate, and to revoke the same; and

(b) To hear and determine all questions, causes and suits in relation to such matters, and to all matters and causes testamentary. R.S.O. 1897, c. 59, s. 18.

The same as in former Court of Probate for Upper Canada.

21.—(1) Subject to the provisions herein contained, every such Court shall also have the same powers and the grants and orders of such Court shall have the same effect throughout Ontario, as the former Court of Probate for Upper Canada and its grants and orders respectively had in relation to the personal estate of deceased persons and to causes testamentary within its jurisdiction; and all duties which by statute or otherwise were imposed on or exercised by such Court of Probate or the Judge thereof in respect of probates, administrations and matters and causes testamentary, and the appointment of guardians and otherwise, shall be performed by the Surrogate Courts and the Judges thereof, within their respective jurisdictions.

No action for legacy or distribution of residue.

(2) An action for a legacy or for the distribution of a residue shall not be entertained by any Surrogate Court. R.S.O. 1897, c. 59, s. 18.

Administration not to be granted to non-resident.

22. Letters of administration shall not be granted to a person not resident in Ontario, but this shall not apply to resealing letters under section 74. 9 Edw. VII. c. 32, s. 2. *Part.*

Probate or letters ancillary to persons not residing in British Dominions.

23. Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the British Dominions, unless such person shall have given the like security as is required from an administrator in case of intestacy unless, in the opinion of the Judge, such security should, under special circumstances, be dispensed with or be reduced in amount. 9 Edw. VII. c. 32, s. 2. *Part.*

To what particular Court the grant of probate or administration shall belong.

24.—(1) The granting of probate or letters of administration shall belong to the Surrogate Court of the county in which the testator or intestate had at the time of his death his fixed place of abode.

(2) If the testator or intestate had no fixed place of abode in, or resided out of, Ontario at the time of his death, the grant may be made by the Surrogate Court of any county in which the testator or intestate had property at the time of his death.

(3) In other cases the granting of probate or letters of administration shall belong to the Surrogate Court of any county. R.S.O. 1897, c. 59, s. 19.

Where Surrogate Judge is entitled to probate, application to be made to Judge in adjoining county.

25.—(1) Where the person or one of the persons entitled to apply for probate of will or for letters of administration is Judge of the Court having jurisdiction in the matter, and he does not renounce, application by him for such probate or letters, and any subsequent application in the matter of the estate by him or by any other person may be made

to

to the Judge of the Surrogate Court for an adjoining county, who shall have the same authority as to such application, and generally in all matters connected with the estate, as if he were the Judge of the Surrogate Court having jurisdiction, and he shall be entitled to the same fees, to be paid in stamps if his fees have been commuted, as he would have been entitled to if the application had been made or proceedings had been taken in the Court of which he is Judge.

(2) All proceedings shall be carried on in the Surrogate Court having jurisdiction. R.S.O. 1897, c. 59, s. 20.

26. Letters probate and letters of administration granted by a Surrogate Court not having jurisdiction to grant the same shall nevertheless until revoked have the same force and effect as if they had been granted by a Surrogate Court having jurisdiction. *New.*

Effect of probate or letters granted without jurisdiction.

27.—(1) Letters probate and letters of administration shall have effect over the property of the deceased in all parts of Ontario. R.S.O. 1897, c. 59, s. 21.

Effect of probate and administration.

(2) This section shall be subject to the provisions of section 57 and to the provisions contained in the letters probate or letters of administration.

POWER TO TRY BY JURY.

28.—(1) The Court may cause any question of fact arising in any proceeding therein to be tried by a jury before the Judge of the Court; and such trial shall take place at some ensuing sittings of the County Court for the County and be conducted in the same manner as other trials by jury in such Court, and the parties shall be entitled to their right of challenge; and, for all purposes of or incidental to the trial of questions of fact by a jury, the Court and the Judge thereof shall have the same jurisdiction, power and authority in all respects as belong to the County Courts, and the Judges thereof, for like purposes. R.S.O. 1897, c. 59, s. 22.

Courts may cause questions of fact to be tried by a jury.

(2) The question directed to be tried by a jury shall be reduced into writing in such form as the Court directs. R.S.O. 1897, c. 59, s. 23.

Procedure on trial.

SITTINGS.

29.—(1) There shall be four sittings in each year for hearing and determining matters and causes in contentious cases and business of a contentious nature, which, except in

Sittings prescribed.

the

the County of York, shall commence on the second Monday in January and the first Monday in April, July and October.

In the County of York.

(2) The sittings in the County of York shall commence on the second Monday in January, June and October, and the first Monday in April in each year. R.S.O. 1897, c. 59, s. 24.

WITNESSES, EVIDENCE, PROCEDURE AND PRACTICE.

Evidence, practice and procedure.

30. The rules of evidence observed in and, except as here-in otherwise provided and subject to the Surrogate Court Rules in contentious matters, the practice and procedure of the High Court shall apply to the Surrogate Courts, and, with respect to all matters within the jurisdiction of the Surrogate Courts, such Courts and the Judges and officers thereof respectively shall have and may exercise all the powers of the High Court and of the Judges and officers thereof. *New.*

Orders and proceedings in respect to the production of instruments purporting to be testamentary.

31.—(1) Whether any suit or other proceeding is or is not pending in the Court with respect to any probate or administration, every Surrogate Court may, on motion or otherwise in a summary way, order any person to produce and bring before the Registrar, or otherwise as the Court may direct, any paper or writing being or purporting to be testamentary which is shewn to be in the possession or under the control of such person.

Examination of persons touching such instruments.

(2) If it is not shewn that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined in open Court or before the Registrar or such person as the Court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person shall be subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the Court and had made such default; and the costs of such motion or other proceedings shall be in the discretion of the Court. R.S.O. 1897, c. 59, s. 26.

REFERENCE OR REMOVAL TO THE HIGH COURT.

In cases of contention, the matter may, by con-

32. Where there is a contention as to the grant of probate or administration, and the parties agree, the contention shall be referred to and determined by the High Court

on a case to be stated, and the probate or administration shall not be granted until the contention is terminated and disposed of by judgment, or otherwise. R.S.O. 1897, c. 59, s. 33.

sent, be referred for adjudication to the High Court.

33.—(1) Where in any cause or proceeding any contention arises as to the grant of probate or administration, or any question is raised as to law or facts relating to matters and causes testamentary, the same may be removed into the High Court by order of a Judge of such Court, made on motion supported by affidavit, and on notice to the other parties concerned.

In certain cases of contention, matter may be removed into High Court.

(2) The Judge may impose such terms as to payment of or security for costs or otherwise as he may deem just.

Terms as to costs.

(3) No cause or proceeding shall be removed unless it is of such a nature and of such importance as to render it proper that the same should be disposed of by the High Court, nor unless the property of the deceased exceeds \$2,000 in value. R.S.O. 1897, c. 59, s. 34.

Certain cases not to be so removed.

(4) The final order or judgment of the High Court in any cause or proceeding so removed shall, for the guidance of the Surrogate Court, be transmitted by the Surrogate Clerk to the Registrar of the Surrogate Court from which the cause or proceeding was removed. R.S.O. 1897, c. 59, s. 35.

Transmission of final order to Surrogate Court.

APPEALS TO THE HIGH COURT.

34.—(1) Any person who deems himself aggrieved by an order, determination or judgment of a Surrogate Court, in any matter or cause, may appeal therefrom to a Divisional Court of the High Court.

Persons considering themselves aggrieved by any judgment, etc., may appeal to the High Court.

(2) No such appeal shall lie unless the value of the property to be affected by such order, determination or judgment exceeds \$200. R.S.O. 1897, c. 59, s. 36.

Appeals not to lie in certain cases.

(3) The practice and procedure upon and in relation to an appeal shall be the same as is provided by *The County Courts Act* as to appeals from the County Court. *New.*

10 Edw. VII., c. 30.

(4) A motion for a new trial after a trial by jury under section 28 shall be deemed an appeal and shall be made to a Divisional Court. *New.*

PRACTICE.

Proofs to lead grant.

Proof, etc.,
requisite for
obtaining
grant of pro-
bate or ad-
ministration
where deceas-
ed resided in
Ontario.

35. On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1897, c. 59, s. 38.

When testa-
tor, etc., had
no fixed place
of abode in or
resided out of
Ontario, upon
what proof
probate or ad-
ministration
to be granted,
etc.

36. On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property within the county to the Surrogate Court of which the application is made, or leaving no property in Ontario, as the case may be, and that notice of the application has been published at least three times successively in the *Ontario Gazette*; and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1897, c. 59, s. 39.

Affidavit
grounding ap-
plication for
grant to be
conclusive for
exercise of
jurisdiction if
acted on.

37. The affidavit as to the place of abode and property of the deceased under the next preceding two sections, for the purpose of giving a particular Court jurisdiction, shall be conclusive for the purpose of authorizing the exercise of such jurisdiction; and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode within the particular county, or had not property therein at the time of his death; but in case it is made to appear to the Judge of a Surrogate Court before whom the application is pending, that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the Judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he may deem just. R.S.O. 1897, c. 59, s. 40.

Judge
may stay pro-
ceedings in
case of incor-
rect state-
ment.

Proof, etc.,
requisite for
obtaining
grant to party
not next of
kin to intes-
tate.

38. Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin or others having or pretending interest in the property

of the deceased, resident in Ontario, to shew cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 41.

39.—(1) If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the Court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the Court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario. R.S.O. 1897, c. 59, c. 42.

Temporary
administration
in certain
cases.

(2) The administrator so appointed shall give such security as the Court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the Court. R.S.O. 1897, c. 59, s. 43.

Security to be
given.

Notice of Applications.

40. Notice of every application for the grant of probate or administration shall be transmitted by the Registrar, by registered post, to the Surrogate Clerk by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 44.

As to trans-
mission of
notice of
applications
for grants of
probates, etc.,
to Surrogate
Clerk by
Registrars.

41. Unless upon special order of the Court, no probate or administration shall be granted until the Registrar has received a certificate, under the hand of the Surrogate Clerk, that no other application appears to have been made in respect of the property of the deceased, which certificate the Surrogate Clerk shall forward as soon as may be to the Registrar. R.S.O. 1897, c. 59, s. 45.

Proceeding to
be stayed till
certificate re-
ceived from
Surrogate
Clerk.

42. All notices in respect of applications shall be filed and kept by the Surrogate Clerk. R.S.O. 1897, c. 59, s. 46.

Surrogate
Clerk to file
notices.

43. The Surrogate Clerk shall, with reference to every such notice, examine all notices of such applications received from the several Registrars, so far as appears to be necessary to ascertain whether or not application for probate or administration

Duty of Sur-
rogate Clerk
with reference
to notices.

stration

stration in respect of the property of the deceased has been made in more than one Surrogate Court, and he shall communicate with the Registrars as occasion may require in relation to such applications. R.S.O. 1897, c. 59, s. 47.

Proceedings if application has been made to more than one Surrogate Court.

44.—(1) Where it appears by the certificate of the Surrogate Clerk that application for probate or administration has been made to two or more Surrogate Courts, the Judges of such Courts respectively shall stay proceedings therein, leaving the parties to apply to a Judge of the High Court for such direction in the matter as he may deem necessary. R.S.O. 1897, c. 59, s. 48.

Judgment as to what Court shall have jurisdiction.

(2) On application made to such Judge of the High Court he shall inquire into the matter in a summary way, and adjudge and determine what Surrogate Court has jurisdiction. R.S.O. 1897, c. 59, s. 49.

Order as to costs.

(3) The Judge of the High Court may order costs to be paid by any of the applicants, and the order shall be enforced by the High Court. R.S.O. 1897, c. 59, s. 50.

Judge's decision to be final.

(4) The determination of the Judge shall be final and conclusive, and the Surrogate Clerk shall without delay transmit a certified copy of the Judge's order to the Registrars of the Surrogate Courts wherein such applications were made. R.S.O. 1897, c. 59, s. 51.

Caveats.

Practice respecting caveats.

45. Caveats against the grant of probate or administration may be lodged with the Surrogate Clerk or with the Registrar of any Surrogate Court. R.S.O. 1897, c. 59, s. 52.

Notice of caveats to be transmitted to the proper Surrogate Courts.

46. Upon a caveat being lodged, the Registrar shall without delay send a copy thereof to the Surrogate Clerk to be entered among the caveats lodged with him and, upon notice of an application being received from the Registrar of a Surrogate Court under section 40, the Surrogate Clerk shall without delay forward to him notice of any caveat that has been so lodged touching such application, and the notice shall accompany or be embodied in the certificate mentioned in section 41. R.S.O. 1897, c. 59, s. 53.

Proof of Wills in Solemn Form.

Where a will affecting real estate is proved in solemn form,

47. Where proceedings are taken for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other contentious

contentious cause or matter the validity of a will is disputed, all persons having or pretending to have any interest in the property affected by the will, may, subject to the provisions of this Act and to the Surrogate Court Rules, be summoned to see the proceedings, and may be permitted to become parties, subject to such Rules and to the discretion of the Court. R.S.O. 1897, c. 59, s. 54.

or is the subject of contentious proceedings, heirs, etc., may be cited.

EXECUTORS.

48. The Court having jurisdiction may summon any person named executor of any will to prove or refuse to prove such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. 21 Hen. 8, c. 5, s. 6; R.S.O. 1897, c. 337, s. 1.

Surrogate Judge may cite executor named in will to prove or renounce.

49. When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, his right in respect of the executorship shall wholly cease, and the representation to the testator, and the administration of his property, shall and may, without any further renunciation, go, devolve, and be committed in like manner as if such person had not been appointed executor. Imp. Act 21 and 22 Vict. c. 95, s. 16. R.S.O. 1897, c. 337, s. 2.

An executor not acting or not appearing to a citation, to be treated as if he had renounced.

INFANT EXECUTORS.

50. Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of such infant, or to such other person as the Court shall think fit, until such infant shall have attained the full age of twenty-one years, at which period, and not before, probate of the will may be granted to him. Imp. Act 38 Geo. 3, c. 87, s. 6; R.S.O. 1897, c. 337, s. 3.

Where an infant sole executor, administration to be granted to the guardian, etc.

51. The person to whom such administration is granted shall have the same powers as an administrator has by virtue of an administration granted to him *durante minore ætate* of the next of kin. Imp. Act. 38, Geo. 3, c. 87, s. 7; R.S.O. 1897, c. 337, s. 4.

Who shall have the same power as where administration is granted *durante minore ætate* of the next of kin.

COPIES OF WILLS.

52. An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration, may be obtained from the Registrar on payment of the prescribed fees. R.S.O. 1897, c. 59, s. 55.

Official copy of the whole or part of a will may be obtained.

ADMINISTRATION PENDENTE LITE.

Administra-
tion pendente
lite may be
granted.

Rights and
powers of the
administrator.

53. Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the Surrogate Court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person; and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the property; and every such administrator shall be subject to the immediate control and direction of the Court; and the Court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the Court may deem proper. R.S.O. 1897, c. 59, s. 56.

ADMINISTRATORS.

To what per-
sons adminis-
tration shall
be granted.

54.—(1) Subject to the provisions of subsection 2, where a person dies intestate, or the executor named in his will refuses to prove the same, administration of the property of the deceased may be committed by the Surrogate Court having jurisdiction, to the husband, or to the wife, or to the next of kin, or to the wife and next of kin as in the discretion of the Court shall seem best; and where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where one only desires the administration as next of kin, where there are more persons than one of equal kindred the administration may be committed to such one or more of such next of kin as the Court may think fit. 31 Ed. 3, St. 1, c. 11 and 21 Hen. 8, c. 5, s. 2, and Common Law; R.S.O. 1897, c. 337, s. 5.

General power
as to appoint-
ment of ad-
ministrator
under special
circum-
stances.

(2) Where a person dies wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the Court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it shall not be obligatory upon the Court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the Court may appoint such person as the Court thinks

fit

fit upon his giving such security as the Court directs, and every such administration may be limited as the Court thinks fit. R.S.O. 1897, c. 59, s. 59.

55. After a grant of administration no person shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the property comprised in or affected by such grant or administration, until such administration has been recalled or revoked. R.S.O. 1897, c. 59, s. 60.

After grant of administration no person to act as executor.

56. An administrator appointed by the Surrogate Court to administer the estate of a deceased person shall be entitled to sue for, and recover, the debts and other property of the deceased, and shall be accountable for the due administration of the same in like manner as an executor. 31 Ed. 3, St. 1, c. 11; R.S.O. 1897, c. 337, s. 6.

Administrators to be entitled to recover property of deceased and to be accountable therefor as executors.

57. A person entitled to letters of administration to the property of a deceased person shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1897, c. 59, s. 61.

Administration limited to personal estate.

INVENTORIES.

58.—(1) The person applying for a grant of probate, or administration, shall, before the same is granted, make or cause to be made and delivered to the Registrar a true and perfect inventory verified by the oath of the applicant of all the property which belonged to the deceased at the time of his death. 21 Hen. 8, c. 5, s. 4.

Inventory to be filed by person applying for probate, or administration.

(2) When after the grant of probate, or letters of administration, any property belonging to the deceased at the time of his death, and not included in such inventory, is discovered by the executor, or administrator, he shall, within six months thereafter, make and deliver to the Registrar an inventory, duly verified by oath, of such newly discovered property. *New.*

Further inventory of subsequently discovered property.

(3) Where the application or grant is limited to part only of the property of the deceased it shall be sufficient to set forth in such inventory the property intended to be affected by such application or grant. R.S.O. 1897, c. 337, s. 9.

Inventory in case of limited grant.

EXECUTOR RENOUNCING.

59. Where a person renounces probate of the will of which he is appointed an executor his rights in respect of the

Right of executor renouncing probate, to cease absolutely.

the executorship shall wholly cease, and the representation to the testator and the administration of his property shall and may, without any further renunciation, go, devolve and be committed in like manner as if such person had not been appointed executor. R.S.O. 1897, c. 59, s. 65.

REMOVAL OF EXECUTOR OR ADMINISTRATOR.

Power to remove executors or administrators in certain cases.

60.—(1) The Surrogate Court by which the grant of probate or letters of administration was made shall, where the entire estate left by the deceased does not exceed \$1,000, have the like authority for the removal of an executor or administrator and to appoint some other proper person to act in his place as is possessed by the High Court, but nothing in this section shall affect the jurisdiction of a Surrogate Court to revoke a grant of probate or of letters of administration.

The place of executor so removed need not necessarily be filled up.

(2) Where the executor or administrator removed is not a sole executor or administrator the Court need not, unless it sees fit, appoint any person to act in the room of the person removed, and, if no such appointment is made, the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died.

Executor of an executor.

(3) The executor of a person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors. R.S.O. 1897, c. 59, s. 66.

Order for removal.

61. A certified copy of the order of removal shall be filed with the Surrogate Clerk and another copy with the Registrar of the Court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers in their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where such grant is indexed. R.S.O. 1897, c. 59, s. 67.

SECURITIES.

Persons receiving grants of administration to give bonds, etc.

62. Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the Judge of the Surrogate Court by which the grant is made, to enure for the benefit of the Judge of the Court

Court for the time being, or in case of the separation of counties, to enure for the benefit of any Judge of a Surrogate Court to be named by the High Court for that purpose, with a surety or sureties as may be required by the Judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the Surrogate Court Rules; and in cases not provided for by the Rules, the bond shall be in such form as the Judge may by special order direct. R.S.O. 1897, c. 59, s. 69.

63.—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, unless the Judge directs that the same shall be reduced, and the Judge may also direct that more bonds than one may be given, so as to limit the liability of any surety to such amount as the Judge deems proper. R.S.O. 1897, c. 59, s. 70.

Penalty in bonds, etc., and as to dividing liabilities of sureties.

(2) The amount of the security may from time to time be reduced by the Judge to double the amount of the property remaining in the hands of the administrator according to the last audit of his accounts by the Judge. *New.*

Amount of security may be reduced.

64. The Judge on application made in a summary way, and on being satisfied that the condition of the bond has been broken, may order the Registrar to assign the bond to some person to be named in the order, and such person shall thereupon be entitled to sue on the bond in his own name, as if the same had been originally given to him, and shall recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1897, c. 59, s. 71.

Power of Surrogate Courts as to assignment of bonds.

65. The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. 2. Edw. VII. c. 12, s. 11 (3).

Form of oath of executor, etc.

66. Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient the Judge may require other or additional security to be furnished and if the same is not furnished as directed by the Judge he may revoke the grant of administration or letters of guardianship. The order may be made by the Judge *sua sponte* or on the application of any person interested. *New.*

Judge may require new or additional security to be given in certain cases.

Judge may
allow substi-
tution of
security.

67.—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation, or where an administrator or guardian desires to substitute other security for that furnished by him the Judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as to the Judge may seem proper and may direct that on the substituted security being furnished and if the Judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged.

(2) The application may be made *ex parte* or on such notice as the Judge directs. *New.*

On final ac-
counting
security may
be cancelled.

68. Where an administrator has passed his final account and has paid into Court or distributed the whole of the property of the deceased which has come to his hands the Judge may direct the bond or other security furnished by the administrator to be delivered up to be cancelled. *New.*

[*As to bonds of guarantee companies see* 9 Edw. VII. c. 67.]

CONTESTATION OF CLAIMS AGAINST ESTATE.

Notice of
contestation of
claim against
estate.

69.—(1) Where a claim or demand is made against the estate of a deceased person which, in the opinion of his personal representative, is unjust, in whole or in part, such personal representative may, at any time before payment, serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section.

Application to
Judge for
order allowing
claim.

(2) The claimant may thereupon apply to the Judge of the Surrogate Court out of which the probate or letters of administration to the estate issued for an order allowing his claim and determining the amount thereof, and if he does not make such application within thirty days after receiving the notice, or within such further time as the Judge may allow, he shall be deemed to have abandoned his claim, and the same, or so much thereof as is contested, shall be forever barred.

Notice of
application to
be given to
personal
representative
and others.

(3) Notice of the application shall be given to the personal representative, to such of the persons beneficially interested in the estate as the Judge may direct, and, if infants are interested therein, to the Official Guardian, and they or any of them and any other person beneficially interested in the estate shall have the right to be heard and to take part in the proceedings, and, where an appeal lies, to appeal from any order that may be made.

(4) The Judge shall have the same power and authority as if the claim of the creditor were a claim made under a reference to a Master, Local Master or Official Referee in an administration action or under an administration order, and his order, if the amount of the claim or the part of it which is contested exceeds \$200, shall be subject to appeal as provided by section 34, and the order upon being filed with the County Court of the County shall, irrespective of the amount, become and may be enforced in like manner as a judgment of that Court.

Judge may deal with a claim as on a reference to a Master or Referee.

(5) Where the claim or the part of it which is contested amounts to \$500 or more, instead of proceeding as provided by this section, the Judge shall, on the application of either party, or of any of the parties mentioned in subsection 3, direct the creditor to bring an action in the High Court for the recovery of his claim on such terms and conditions as the Judge may deem just.

Where claim is \$500 or more leave may be granted to bring an action.

(6) The fees payable to the Judge and to the Registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested. 9 Edw. VII., c. 32, s. 1.

Fees of Judge and Registrar.

ACCOUNTS OF EXECUTOR, ADMINISTRATOR OR GUARDIAN.

70. An executor who is also a trustee under the will may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. *New.*

Accounting by executor trustee.

71.—(1) Where an executor, administrator, trustee under a will of which he is an executor or a guardian, has filed in the proper Surrogate Court an account of his dealings with the estate and the Judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the High Court, such approval, except so far as mistake or fraud is shown, shall be binding upon any person who was notified of the proceedings taken before the Surrogate Judge, or who was present or represented thereat, and upon every one claiming under any such person. R.S.O. 1897, c. 59, s. 72; 2 Edw. VII. c. 12, s. 11 (1).

Approval of accounts by Surrogate Judge to be binding in High Court.

(2) A guardian appointed by the Surrogate Court may pass the accounts of his dealings with the estate before the Judge of the Court by which letters of guardianship were issued. 2 Edw. VII. c. 12, s. 11 (2).

Passing accounts by guardians.

(3) The Judge, on passing the accounts of an executor, administrator or such a trustee, shall have jurisdiction to enter into and make full enquiry and accounting of and

Powers of judge on passing accounts.

concerning

concerning the whole property which the deceased was possessed of or entitled to, and the administration and disbursement thereof, in as full and ample a manner as may be done in the Master's Office under an administration order and, for such purpose, may take evidence and decide all disputed matters arising in such accounting subject to an appeal under section 34.

Notice to
persons
interested.

(4) The persons interested in the taking of such accounts or the making of such enquiries shall, if resident within Ontario, be entitled to not less than seven days' notice thereof, and, if resident out of Ontario, shall be entitled to such notice as the Judge shall direct. 5 Edw. VII. c. 14, s. 1.

Where an
infant or
lunatic is
interested.

(5) Where an infant or a lunatic is interested the Official Guardian shall be entitled to the like notice and to attend and to represent the infant or lunatic. *New.*

Executors or
administra-
tors not
compellable
to account
(except by
inventory) but
at the instance
of persons
interested.

72.—(1) Neither an executor nor an administrator shall be required by any Court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor shall such executor or administrator be otherwise compellable to account before any Judge.

(2) This section shall apply notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. 1. Jac. 2, c. 17, s. 6; R.S.O. 1897, c. 337, s. 7.

ESTATES OF SMALL VALUE.

When estate
not over \$400
Registrar to
prepare
papers.

73.—(1) Where the whole property of the deceased does not exceed in value \$400 the Registrar, upon the application of any person entitled to probate or administration, shall prepare the necessary papers to lead the grant, and in the case of administration the administration bond, and administer all necessary oaths and the only fees payable in respect thereof and of the grant of probate or administration shall be those mentioned in subsection 3. R.S.O. 1897, c. 57, s. 74.

Judge to be
satisfied that
the value of
the estate is
less than
\$400.

(2) If the Judge has reason to believe that the whole property of which the deceased died possessed exceeds in value \$400, he shall refuse to proceed with the application until he is satisfied as to the real value thereof. R.S.O. 1897, c. 59, s. 75.

(3) Such fees as the Lieutenant-Governor in Council may prescribe, shall be payable to the Judge and Registrar, on proceedings under this section, but the total amount for all proceedings and services to be charged to an applicant shall not exceed \$2. R.S.O. 1897, c. 59, s. 76. Scale of fees.

(4) Where the whole property of the deceased exceeds in value \$400, but does not exceed \$1,000, the fees payable to the Registrar and to the Judge on proceedings under this Act, in non-contentious cases, shall be one-half of the fees payable according to the tariffs in the case of an estate not exceeding in value \$1,000. R.S.O. 1897, c. 59, s. 77. Fees of Registrar and Judge when estate under \$1,000.

ANCILLARY PROBATES AND LETTERS OF ADMINISTRATION.

74.—(1) Where probate or letters of administration, or other legal document purporting to be of the same nature, granted by a Court of competent jurisdiction in the United Kingdom, or in any Province or territory of the Dominion, or in any other British possession, is produced to, and a copy thereof deposited with the Registrar of any Surrogate Court, and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration, or other document shall, under the direction of the Judge, be sealed with the seal of the Surrogate Court, and shall thereupon be of the like force and effect in Ontario, as if the same had been originally granted by such Surrogate Court, and shall, so far as regards Ontario, be subject to any order made by such Court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. R.S.O. 1897, c. 59, s. 78. Manner of giving effect to grants of probate, etc., of English or Colonial Courts.

(2) The letters of administration shall not be sealed with the seal of the said Surrogate Court until a certificate has been filed under the hand of the Registrar of the Court which issued the letters, that security has been given in such Court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such Court as the assets within Ontario, or in the absence of such certificate, until like security is given to the Judge of the Surrogate Court covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1897, c. 59, s. 79. Security required.

[Proclamation bringing 51 V. c. 9, Ontario, into full force, published in Gazette, 27th May, 1893. For Imperial Order in Council applying "The Colonial Probates Act, 1892," to the Province of Ontario and for Rules under that Act, see Statutes of Ontario, 1895, page x].

FEES AND COSTS.

As to fees payable to the Crown.
Rev. Stat. c. 25.

75.—(1) The fees mentioned in Schedule A shall be payable in law stamps.

Stamps to be attached to order for grant.

(2) The stamps in respect of a grant of probate or administration or guardianship shall be affixed to the order for the grant, and not to the probate or letters of administration or guardianship. R.S.O. 1897, c. 59, s. 80.

(3) In case of commutation of the Judges' fees, the fees heretofore payable to the Judge shall be paid in law stamps, and such stamps shall, in the case of passing accounts, be affixed to the copy of the order filed with the Surrogate Registrar.

As to fees to be taken by Judges, etc., to their own use.

76. Subject to the provisions of sections 73 to 75 and sections 77 to 79, the Judge may demand and take to his own use the fees mentioned in Schedule B, which shall be collected by the Registrar on or before each proceeding and paid over to the Judge, and annual returns of such fees, up to the 31st day of the preceding December, shall be made to the Provincial Secretary by the Registrar on or before the 15th day of January in each year. R.S.O. 1897, c. 59, s. 81.

On what property fees to be charged.

77. The fees payable shall be based on the amount of what, before the 1st day of July, 1886, was personal property. R.S.O. 1897, c. 59, s. 82.

Commutation of fees of Judges.

78.—(1) The Lieutenant-Governor in Council may, with the consent of the Judge, commute the fees payable to him under this Act for a fixed annual sum not exceeding the average annual amount of the fees payable to the Judge during the next preceding five years; and, when a vacancy occurs, any order made under this subsection may be rescinded, or varied, but in no case shall an Order in Council name a sum exceeding the average annual amount of fees payable to the Judge during the next preceding five years. R.S.O. 1897, c. 59, s. 83 (1).

Fees of Judges in York, Carleton, Wentworth and Middlesex.

(2) In the cases of the Counties of York, Carleton, Wentworth and Middlesex, the Lieutenant-Governor in Council may direct payment to the Judges and to the Junior Judges of the County Courts of such Counties respectively of such part of the fees payable to the Judge as he may determine, and in every such case the excess, if any, shall be paid over to the Treasurer of the Province. 3 Edw. VII. c. 7, s. 12.

(3) Except in the case of the counties mentioned in the next preceding subsection the Lieutenant-Governor in Council may direct that where in any year the fees payable to the Judge exceed \$1,000 the Junior Judge or where he is the Surrogate Judge the Senior Judge shall receive out of the excess a sum not exceeding \$666. 8 Edw. VII. c. 33, s. 24.

In other
counties.

(4) Except in the case of the Counties mentioned in subsection 2, where the fees payable to the Judge in any year exceed \$1,000 the excess except so much thereof as is payable to the Junior Judge, or if he is the Surrogate Judge to the Senior Judge, under the next preceding subsection shall be paid over to the Treasurer of the Province. R.S.O. 1897, c. 59, s. 83.

Fees over
\$1,000 to be
paid to Pro-
vincial
Treasurer.

(5) The powers conferred by subsections 2 and 3 may be exercised notwithstanding that the fees payable to the Judge have been commuted. 8 Edw. VII. c. 33, s. 24, *part*.

(6) Every Order in Council made under this section shall be laid before the Assembly forthwith if the Legislature is in session, and if it is not then in session, within the first seven days of the session next after the order is made. R.S.O. 1897, c. 59, s. 84.

Order to be
laid before
Assembly.

79.—(1) The Board of County Judges may prescribe a tariff of the fees and costs to be taken by the Registrars and Officers of the Surrogate Courts, and to be allowed to solicitors and counsel practising therein for duties and services in respect of proceedings in such Courts and to witnesses therein, and no other fees or costs than those so authorized shall be taken by or allowed to such registrars, officers, solicitors, counsel and witnesses.

Tariff to be
made by Board
of County
Judges.

(2) The Board may also make rules for regulating the practice and procedure in the Surrogate Courts.

(3) The Board or three members thereof shall certify to the Judges authorized to make rules under section 122 or section 125 of *The Judicature Act*, any rule or tariff so framed, or any alteration thereof, and any Judges authorized to make rules under that Act may approve, disallow or amend the same. R.S.O. 1897, c. 59, s. 86.

Rev. Stat.
c. 51.

80. The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a Surrogate Court, whether contentious or otherwise, or any matter connected therewith, shall, as well between solicitor and client as between party and party, be subject to taxation in such Court. R.S.O. 1897, c. 59, s. 87.

Taxation of
costs.

REPEAL.

Repeal.

81. Chapter 59 of the Revised Statutes, 1897, except sections 58, 63 and 64, and all amendments to the said Chapter and sections 1 to 9 of Chapter 337 of the said Revised Statutes are repealed.

SCHEDULE A.

FEES PAYABLE TO THE CROWN.

1

On proceedings in the offices of Registrars.

	\$	c.
On every application for probate, administration or guardianship (including notice thereof to Surrogate Clerk; but not postage)	0	50
On certificate of Surrogate Clerk upon such application (including transmission to Registrar, but not postage)	0	50
On every instrument or process with seal of Court	0	50
Entry and notification of caveat, not including postage	0	50
On every grant of probate or administration, as follows, viz.: Where the property devolving does not exceed \$1,000..	0	50
For every additional \$1,000 or fraction thereof	0	50
On every final judgment in contentious or disputed cases	1	00
On deposit of a will for safe custody	0	50

2

On proceedings in the office of the Surrogate Clerk.

Fees payable
in Surrogate
Clerk's office.

The following fees shall be payable notwithstanding anything contained in section 73 of this Act, or in section 155 of *The Ontario Insurance Act*:—

	\$	c.
On every search for grant of probate, administration, guardianship, or other matter in Clerk's office (other than searches on application of Registrars)	0	50
On every certificate of search or extract	1	00
(If exceeding three folios, 10 cents for each additional folio.)		
On every certificate respecting other application or caveat, where the necessary search does not extend beyond three years	0	50
Where the necessary search extends beyond three years, 10 cents additional for every year beyond three years.		
On every certificate, where the whole estate does not exceed in value \$400; or where the estate consists of insurance money only, not exceeding \$400	0	30
On every other certificate issued by the Clerk	0	50
On every order made on application to a Judge of the High Court and transmission of same, exclusive of postage	0	80
On entry of every appeal	1	00
On every judgment on appeal and transmission, exclusive of postage	3	00
On entry of caveat	0	50
On every judgment or order on appeal	2	50

R.S.O. 1897, c. 59, Sched. A; 1 Edw. VII. c. 12, s. 8.

SCHEDULE B.

SCHEDULE B.

FEES PAYABLE TO JUDGE.

	\$	c.
On every grant of probate or administration:		
Where the property devolving does not exceed \$1,200..	2	00
Where the property devolving exceeds \$1,200 but does not exceed \$3,000	3	00
Where the property devolving exceeds \$3,000 but does not exceed \$4,000	4	00
And for every additional \$1,000, or fraction thereof, the additional sum of	1	00
On every appointment of a guardian	2	00
On every order or appointment	0	50
On every special attendance or attendance to grant probate or administration or upon an appointment when an audit is adjourned	1	00
On every audit where the total of the accounts to be audited does not exceed \$1,000	1	00
per hour, but not to exceed \$2.00 on any day.		
On every audit where such total exceeds \$1,000, but is under \$10,000	1	00
per hour, but not to exceed \$5.00 on any day.		
On every audit where such total is or exceeds \$10,000, but is under \$50,000	1	50
per hour, but not to exceed \$6.00 on any day.		
On every audit, where such total is or exceeds \$50,000	2	00
per hour, but not to exceed \$10.00 on any day.		

For every day's sitting in contentious or disputed cases, similar fees to those allowed in cases of audit.

R.S.O. 1897, c. 59, Sched. B; 3 Edw. VII. c. 7. s 13.

CHAPTER 32.

An Act respecting the Division Courts.

Assented to 19th March, 1910.

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FORMS. P P. 292-296.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

SHORT TITLE.

Short title. **1.** This Act may be cited as "*The Division Courts Act.*" R.S.O. 1897, c. 60. s. 1.

INTERPRETATION.

Interpretation. **2.**—(1) In this Act:—

- "Action," (a) "Action" shall include a proceeding, suit, matter and cause;
- "County," (b) "County" shall include Provisional County and Provisional Judicial District;
- "County Court," (c) "County Court" shall include District Court;
- "Defendant," (d) "Defendant" shall include primary debtor;
- "Division," (e) "Division" shall mean the territory in and for which a Division Court is established;
- "Inspector," (f) "Inspector" shall mean the Inspector of Division Courts;
- "Judge," (g) "Judge" shall mean and include the Judge and a Junior Judge of the County Court of the County in which the division for which a Division Court is constituted is situate;

(h)

- (h) "Judgment creditor" shall include a creditor who ^{"Judgment creditor."} has obtained judgment against a garnishee;
- (i) "Judgment debtor" shall include a garnishee ^{"Judgment debtor."} against whom judgment has been recovered;
- (j) "Plaintiff" shall include primary creditor; ^{"Plaintiff."}
- (k) "Prescribed form" shall mean the form pre- ^{"Prescribed Form."} scribed by this Act or by the general rules or orders relating to Division Courts.

(2) Where in this Act any power or authority is conferred or any duty is imposed upon the Judge of the County Court, it shall be exercised or performed by him and not by a Junior Judge.

3. Part I., except where otherwise therein provided, shall ^{Territorial application of} apply to every County and Provisional Judicial District in ^{Parts of Act.} Ontario. Part II. shall be applicable only to Provisional Judicial Districts.

PART I.

THE COURTS.

4. The Division Courts, as existing at the time this Act ^{Courts continued.} takes effect, shall continue. R.S.O. 1897, c. 60, s. 3.

5. There shall be not less than three nor more than twelve ^{Number of courts in each county.} Division Courts in each county, of which there shall be at least one in each city and county town. R.S.O. 1897, c. 60, s. 4.

6. The court in each division shall be called "The First ^{Designation of court.} (or as the case may be) Division Court of the county of _____." R.S.O. 1897, c. 60, s. 5.

7. Every court shall have a seal, with which all process ^{Each court to have a seal.} shall be sealed or stamped, and which shall be paid for out of the Consolidated Revenue Fund. R.S.O. 1897, c. 60, s. 6.

8. The court shall be a Court of Record. R.S.O. 1897, ^{To be Courts of Record.} c. 60, s. 7.

9. The Lieutenant-Governor in Council may designate ^{Appointment of place of office of Division Court Clerk.} the place within the division where the office of the clerk shall be situated. R.S.O. 1897, c. 60, s. 9.

10.—(1) A sittings of the court shall be held in each ^{Time and place of holding courts.} division once in every two months, or oftener in the discretion of the Judge who presides over the Division Courts of the county, and the Judge may appoint and from time to time alter the times and places for holding such courts, and shall notify the clerk thereof. R.S.O. 1897, c. 60, s. 8.

The Lieut.-Governor may, in certain cases, regulate holding of courts.

(2) If the Judge of the county court, the sheriff and the inspector, or any two of them, certify to the Lieutenant-Governor that, in any division of the county, it is expedient that the court should not be held so often as once in every two months, the Lieutenant-Governor in Council may order the court to be held at such periods as to him seems meet, but a court shall be held in the division at least once in every six months. R.S.O. 1897, c. 60, s. 13.

Holding of courts in cities offices of clerks therein.

11. In any city in which two Division Courts are established, all or any of the sittings of both such courts may be held in either of such divisions, and the clerks of both courts may, with the approval of the Lieutenant-Governor in Council, keep their offices in the same division. R.S.O. 1897, c. 60, s. 9.

Sittings in Toronto.

12. Each of the courts for divisions within the City of Toronto shall, except during the month of August, hold sittings as follows:

- (a) At least weekly for the trial of actions;
 - (b) At least monthly for the hearing of judgment summonses; and
 - (c) At least once in every two months for the trial of actions where juries have been demanded.
- R.S.O. 1897, c. 60, s. 10.

Division Courts accommodation.

13.—(1) The local municipality in which a Division Court is held shall provide a court room, not in or connected with an hotel, and other necessary accommodation for holding the court.

If there be no proper court room, etc., the Judge may hold court in any suitable place.

(2) If a proper court room and other necessary accommodation are not furnished by the municipality, the Judge may hold the court in any suitable place in the division, or in any other division of the county in which suitable accommodation is provided, and the owner, lessee or tenant of the building in which the court is held shall be entitled to receive from the municipality whose duty it was to provide proper accommodation for the court, the sum of \$5 for every day on which the court is held in the building.

Expenses for rent.

Judge to apportion costs in certain cases.

(3) Where a municipality, not being a city or town, furnishes a court room and other necessary accommodation, or pays for the use of any building, the municipality shall be entitled to recover from any other municipality the whole or part of which is within the division for which the court is held, such reasonable share of the cost as shall be ordered by the Judge of the court to be paid and contributed by the last mentioned municipality and in every such case the total cost shall be deemed to be \$5 for every day on which the court is held. R.S.O. 1897, c. 60, s. 11.

14. The sittings of the court in a county town may be held in the Court House. R.S.O. 1897, c. 60, s. 12. Use of Court House.

15.—(1) In a county the Judge of the county court, the Sheriff, the Warden and the Inspector, and in a Provisional Judicial District the Judge of the District Court, the Sheriff and the Inspector shall be a board who may appoint and alter the number and limits of the divisions and shall number the divisions beginning at number 1. See R.S.O. 1897, c. 109, s. 55 (2). Board for determining the number and limits of divisions.

(2) In a provisional county the Judge of the county court and the sheriff of the county of which the provisional county forms a part for judicial purposes, the Inspector and the Warden of the provisional county shall constitute the board. (*New.*) Board in provisional county.

(3) No resolution or order altering the number or limits of the divisions or any of them shall be made, except at a meeting called for that purpose, of which four weeks' notice shall be given by publication in a newspaper published in the division affected, or if no newspaper is published there, then in a newspaper published in the county or district town of the county or district in which the division affected is situate. Meeting of Board.

(4) No such resolution or order shall take effect until approved by the Lieutenant-Governor in Council nor until notice of such approval has been published in the *Ontario Gazette*. R.S.O. 1897, c. 60, s. 15. When order of Board to take effect.

(5) An application to alter the limits of any division or to establish a new division may be made to the Judge of the county court in writing signed by the Reeve or other head of any municipality in the county, authorized by a resolution of the council in that behalf, or by a petition signed by at least twenty-five ratepayers of the municipality affected. Application for change of boundaries.

(6) Upon receiving the application the Judge shall notify the other members of the board, and upon receiving notice the Inspector shall appoint a time and place for considering the application, of which four weeks' notice shall be given as provided by subsection 3, and at the meeting persons supporting or opposing the proposed change shall be heard if they so desire, and the board shall consider and dispose of the whole matter. R.S.O. 1897, c. 60, ss. 15 and 16; 61 V. c. 15, s. 9. Procedure upon application.

(7) The Inspector shall keep a record of the proceedings of the board and shall send a copy of it to the Clerk of the Peace after each meeting. *New.* Record of proceedings.

Actions and judgments continued when transferred.

16. Actions and judgments in any court, the number or limits of which are changed, shall continue to be actions and judgments therein, but the Judge may transfer any such action or judgment to any other court, and when so transferred the same shall be an action or judgment of such other court. R.S.O. 1897, c. 60, s. 18.

Clerks of the Peace to record time and place for holding courts.

17. The Clerk of the Peace, in a book to be kept by him, shall record the divisions declared and appointed, and the times and places of holding the courts, and the alterations made therein, and he shall transmit to the Inspector a copy of the record. R.S.O. 1897, c. 60, s. 14.

Actions where united counties are dissolved.

18.—(1) Where a union of counties is dissolved or a county is separated from a union of counties:—

(a) The courts of divisions which were wholly within the senior county or remaining counties and those which were wholly within the junior or separated county shall continue to be courts of the senior county or remaining counties and of the junior or separated county respectively, and all actions and judgments therein shall continue to be actions and judgments in such courts until altered by the board.

(b) Actions and judgments in courts or divisions the limits of which were partly within the senior county or remaining counties and partly within the junior or separated county, shall continue to be actions and judgments of such courts until transferred to some other court in accordance with this Act.

The Lieutenant-Governor in Council may fix number and limits of courts.

(2) The Lieutenant-Governor in Council may in the proclamation establishing a new county, or in a subsequent proclamation, to take effect in either case from a day to be named therein, fix and determine the number and limits of the courts for the new county, subject to be thereafter altered by the board, and may by the proclamation direct that actions and judgments in any court shall become actions and judgments in any other court and thereupon the same shall become actions and judgments of and shall be continued in such last mentioned court.

Writs and documents to be delivered up.

(3) Where an action or judgment in any court is transferred to another court the clerk or other officer of the court who holds any writ or document appertaining to such court or the business thereof shall deliver up the same to such person as the Judge directs. R.S.O. 1897, c. 60, ss. 17, 18, 19, 20, 21.

(4) If the Lieutenant-Governor does not by proclamation fix and determine the number and limits of the divisions for the new county, the board shall, within three months after the issuing of the proclamation for establishing the new county, at a meeting to be called for the purpose or at an adjourned meeting, appoint the number and limits of the divisions for the county and the time when such appointment shall take effect. R.S.O. 1897, c. 60, s. 21.

Regulation of limits on separation of a county.

THE JUDGE.

19.—(1) The courts shall be presided over by the Judge or the Junior Judge or by the Deputy Judge.

County Court Judges to preside.

(2) The Junior Judge shall preside over the courts of the county, subject to any other arrangements from time to time made with the Judge of the county court or, in the County of York, by a majority of the Judges.

Junior Judge to hold Division Courts.

(3) The appointment of a Junior Judge shall not prevent or excuse the Judge from presiding at any of the courts within his county when the public interests require it. R.S.O. 1897, c. 60, s. 22.

Senior Judge to hold Division Courts when expedient.

20.—(1) The Judge may appoint a barrister to act as his deputy; and the Barrister so appointed shall have all the powers and privileges vested in and be subject to all the duties imposed by law upon the Judge. R.S.O. 1897, c. 60, s. 23.

Who to preside in case of illness or absence of Judge.

(2) The Judge shall forthwith send to the Provincial Secretary notice of the appointment, specifying the name and residence of the Barrister so appointed and the cause of his appointment. R.S.O. 1897, c. 60, s. 24.

Lieutenant-Governor to be notified of appointment of Deputy.

(3) No such appointment shall be continued for more than one month and, in case the Lieutenant-Governor in Council disapproves of the appointment, he may annul the same. R.S.O. 1897, c. 60, s. 25.

Duration of appointment.

21. If the Judge does not open court on the day appointed for that purpose, the clerk shall, after four o'clock in the afternoon, adjourn the court to an hour on the following day to be named by him, and so from day to day, adjourning over any Sunday or holiday, until the Judge arrives to open court, or until other directions are received from him. R.S.O. 1897, c. 60, s. 26.

Adjournment of court if Judge does not arrive in time.

CLERKS AND BAILIFFS, ETC.

Every court
to have clerk
and bailiffs.

Tenure of office
of Division
Court officials.

Clerk not to
practise as
barrister, etc.

Duty of County
Court Judges.

Suspension of
clerk or bailiff
by Judge.

Inspector may
grant leave of
absence to
clerks or
bailiffs.

When Clerk
may appoint
deputy.

Clerks and
bailiffs to give
security.
9 Edw. VII.,
c. 5.

22. For every court there shall be a clerk and a bailiff or bailiffs, who shall be appointed by the Lieutenant-Governor, and all clerks and bailiffs heretofore or hereafter appointed shall hold office during the pleasure of the Lieutenant-Governor. R.S.O. 1897, c. 60, ss. 27 and 28; 6 Edw. VII. c. 19, s. 12.

23. A clerk shall not practise as a barrister or solicitor. R.S.O. 1897, c. 60, s. 29.

24.—(1) It shall be the duty of the Judge to see that the officers of his courts perform their duties, and to examine into complaints against them.

(2) The Judge may for any cause suspend a clerk or bailiff, and in case of suspension shall forthwith report the same and the cause thereof to the Inspector, and, if a vacancy occurs in the office of clerk or bailiff, the Judge shall forthwith notify the Inspector. R.S.O. 1897, c. 60, s. 32.

25.—(1) Leave of absence for a period not exceeding two months may be granted by the Inspector to a clerk or bailiff. R.S.O. 1897, c. 60, s. 33.

(2) With the approval of the Judge, when prevented from acting by illness or accident, and with the approval of the Inspector, during absence on leave, the clerk or bailiff may appoint a deputy to act for him, with all his powers and privileges and subject to like duties, and the clerk and his sureties shall be jointly and severally responsible for all the acts and omissions of his deputy; and the bailiff and his sureties shall be jointly and severally responsible for all the acts and omissions of his deputy. R.S.O. 1897, c. 60, ss. 34, 35.

26. Subject to the provisions of *The Public Officers Act* and of section 33 of this Act, every clerk and bailiff shall give security by a covenant, Form 1, with such and as many sureties, being freeholders and residents within the county, and in such sums as the Judge directs and under his hand approves and declares sufficient. Provided always that the Lieutenant-Governor in Council may increase or diminish the sum or sums for which any clerk or bailiff heretofore, or who may hereafter be appointed, shall be required to give security. R.S.O. 1897, c. 60, s. 36.

27.—(1) Before a clerk or bailiff enters upon the duties of his office, the covenant of himself and his sureties, approved as aforesaid, shall be filed in the office of the Clerk of the Peace of the county in which the division is situate; and for filing the same, and granting a certificate thereof, the Clerk of the Peace shall be entitled to receive from the clerk or bailiff a fee of \$1.

Before clerk or bailiff enters on his duties covenant to be filed with Clerk of the Peace.

(2) Where a covenant requires periodical renewal, the renewal receipt shall be filed with the Clerk of the Peace in whose office the covenant has been filed, and shall be attached to the covenant. The Clerk of the Peace for receiving and filing the receipt shall be entitled to receive from the clerk or bailiff a fee of fifty cents. R.S.O. 1897, c. 60, s. 37.

Renewal of clerks' and bailiffs' covenants.

28. The covenant shall enure to the benefit of, and may be sued upon in any court of competent jurisdiction by any person suffering damages by the default, breach of duty or misconduct of the clerk or bailiff. R.S.O. 1897, c. 60, s. 38.

Covenant to be available to suitors, etc.

29. A copy of the covenant, certified by the Clerk of the Peace, shall be received in all courts as sufficient evidence of the due execution, and of the contents thereof, without further proof. R.S.O. 1897, c. 60, s. 39.

Certified copy of covenant to be received as evidence.

30.—(1) In an action against a surety of a clerk or bailiff, the entries in the books kept by such clerk or bailiff shall be *prima facie* evidence against the surety.

Entries of clerk or bailiff evidence against surety.

(2) For the purpose of this section the words "clerk or bailiff" shall include a person who has ceased to be a clerk or a bailiff, as the case may be. R.S.O. 1897, c. 60, s. 40.

Interpretation of clerk or bailiff.

31. If a surety dies, becomes resident out of Ontario, or insolvent, the clerk or bailiff shall, within one month after such death, departure or insolvency, give a new security, in the manner hereinbefore provided, under penalty of forfeiture of his office. R.S.O. 1897, c. 60, s. 41.

If surety dies, etc., a new surety to be furnished.

32.—(1) A surety who intends to withdraw from his suretyship may give notice in writing of his intention to the clerk or bailiff, as the case may be, and to the Judge, which may be served personally or left with a grown up person at the office or place of residence of the person to whom it is addressed, or mailed by registered post to such person at his usual post office address.

Procedure where sureties of clerk or bailiff discontinue suretyship.

(2) The Judge receiving the notice shall forthwith notify the clerk or bailiff who shall, under penalty of forfeiture of his office (in addition to the suspension hereinafter men-

Judge to notify clerk or bailiff.

tioned

tioned), furnish the covenant of a new surety in lieu of the surety so giving notice, and shall procure the new covenant to be approved by such Judge and filed within one month after the notices have been given to him and to the Judge.

If security not renewed Judge to suspend clerk or bailiff.

(3) If the covenant is not so approved and filed, the Judge shall forthwith suspend the clerk or bailiff and report the suspension and the cause thereof to the inspector, and all accruing responsibility of the surety giving the notice shall cease from and after the expiration of five weeks from the day on which the last of such notices was given.

Former sureties not released.

(4) Nothing done under the provisions of this section shall discharge or exonerate any of the parties to the former covenant from liability on account of any matter done or omitted prior to the approval and filing of the new covenant or the expiration of the five weeks. R.S.O. 1897, c. 60, s. 42.

Security for Division Court clerks and bailiffs.

33.—(1) Subject to the approval of the Lieutenant-Governor in Council and to any regulations made by him, the inspector may from time to time enter into agreements with any company or corporation empowered to make such agreements for insuring or guaranteeing the integrity and faithful accounting and performance of the duty of any clerk or bailiff named in the agreement or in any schedule thereto or whose name is subsequently added to the schedule under the terms of any Order-in-Council and agreement, and every such agreement shall enure to the benefit of the same persons, and shall be enforceable in the same manner as a covenant entered into under section 26. 4 Edw. VII. c. 4, s. 2.

Amount of security to be fixed as heretofore.

(2) The amount of the security to be furnished shall be determined by the Judge. 4 Edw. VII. c. 4, s. 3.

Certificate to be filed in office of clerk of the peace.

(3) Where security is furnished under the provisions of this section, the Inspector shall give to the clerk or bailiff a certificate thereof which the clerk or bailiff shall file in the office of the Clerk of the Peace and the filing of the certificate shall have the same effect as the filing of a covenant as provided by subsection 1 of section 27. 4 Edw. VII. c. 4, s. 4.

Clerk's Duties.

Clerk to issue summonses and furnish copies, etc.

34. The clerk shall issue all summonses and shall make copies thereof with the notices thereon, according to the prescribed form and, except as otherwise provided by this Act, shall deliver the same to the bailiff for service. R.S.O. 1897, c. 60, s. 44

35. The clerk shall cause a note of all summonses, notices, orders, judgments, warrants, executions and returns thereto, to be entered in a book to be kept in his office; and shall sign his name on every page of the book; and the signed entries, or a copy thereof certified as a true copy by the clerk, shall be sufficient evidence of such entries and of the proceedings referred to therein, without further proof. R.S.O. 1897, c. 60, s. 45.

36.—(1) A Procedure Book, Form 2, and a Foreign Procedure Book, Form 3, shall be kept by the clerk. R.S.O. 1897, c. 60, s. 46.

(2) Where the fees and emoluments earned by him are less than \$500 a year the cost of all books required by this Act to be kept by the clerk or bailiff shall be repaid to him by the treasurer of the county. R.S.O. 1897, c. 60, s. 48.

37. The clerk, when required, shall forward the summons and copies for service to the clerk of any other court who shall receive and deliver them to the bailiff for service, and when returned shall send the summons to the clerk from whom it was received, and shall enter the proceedings in the Foreign Procedure Book. R.S.O. 1897, c. 60, s. 96.

38. The clerk shall issue all warrants and executions; and shall tax costs, subject to revision by the Judge, and shall keep an account of all fines payable or paid into court, and of all suitors' moneys paid into and out of court, and shall enter an account of all such fines and moneys in a book to be kept by him for that purpose, which shall be open to all persons desirous of searching the same and shall at all times be accessible to the Judge and the inspector. R.S.O. 1897, c. 60, s. 47.

39. The moneys arising from any penalty, forfeiture or fine imposed by or under authority of this Act, not directed to be otherwise applied, shall be paid to the clerk and shall be paid by him to the Clerk of the Peace, to be paid over to the Treasurer of the Province. R.S.O. 1897, c. 60, s. 301.

40. The clerk shall at least once in every three months and oftener if required by the Clerk of the Peace, deliver to him a full account in writing verified by affidavit of all fines levied, accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may make out of such fines in pursuance of the power hereinafter given. R.S.O. 1897, c. 60, s. 49.

Clerk to furnish Judge with a verified account of moneys paid in and out of court.

41. The clerk when required by the Judge shall furnish him with a full account in writing, verified by affidavit of the moneys paid into or out of the court under orders, judgments or process of the court, and of the balance in court belonging to suitors or others. R.S.O. 1897, c. 60, s. 50.

Clerk to mail notice of payment of money.

42.—(1) Immediately after the receipt of any sum of money for any person, the clerk shall forward a notice thereof by registered post to the person entitled to receive the same; and shall obtain and file among the papers in the action the post-office certificate of the registration, and shall deduct the postage from the moneys in his hands, but shall charge no fee for the notice.

Registration certificate to be with papers.

(2) The absence of the certificate of registration from among the papers in the action shall be *prima facie* evidence against the clerk that the notice has not been forwarded. R.S.O. 1897, c. 60, s. 302.

Effect of absence of certificate.

Clerk annually to make list of suitors' money in court for 6 years.

43.—(1) The clerk shall annually in the month of January, make out a correct statement of all sums of money belonging to suitors or others which have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the persons for whom or on whose account the same were so paid.

List to be put up in court house and Clerk's office, and sent to Provincial Treasurer and Inspector.

(2) The clerk shall keep one copy of the statement posted up in his office and another copy in some conspicuous part of the Court House or place where the court is held, and copies shall also be sent to the Treasurer of the Province and the inspector. R.S.O. 1897, c. 60, s. 51.

Unclaimed moneys to be paid over to Clerk of Peace.

(3) All such sums shall form part of the Consolidated Revenue Fund, and shall be forthwith paid over by the clerk or officer holding the same to the Clerk of the Peace of his county, to be paid over to the Treasurer of the Province and, except by leave of the Lieutenant-Governor in Council, no person shall be entitled to claim any such sum which has remained unclaimed for six years. R.S.O. 1897, c. 60, s. 303.

Claims of persons under disability not to be prejudiced.

(4) The time during which the person entitled to claim the money was an infant or of unsound mind, or out of Ontario, shall not be taken into account in computing the six years. R.S.O. 1897, c. 60, s. 304.

Disposal of Books and Papers when Clerk or Bailiff changed.

44. All accounts, moneys, books, papers, documents, and other things in the possession of a clerk or bailiff by virtue of or appertaining to his office, shall, upon his death, resignation, or removal, immediately become the property of the Clerk of the Peace, who shall hold the same until the appointment of another clerk or bailiff, to whom he shall deliver over the same, when security has been furnished on behalf of such clerk or bailiff. R.S.O. 1897, c. 60, s. 52.

Upon resignation, removal or death of clerk, Clerk of Peace to become possessed of papers.

45. Upon the death, resignation, suspension or removal of the clerk, the Clerk of the Peace shall be the clerk until a successor is appointed or the suspension is removed. R.S.O. 1897, c. 60, s. 53.

Clerk of Peace to act as clerk when office of Clerk is vacant.

Duties of Bailiffs.

46. The bailiff shall promptly serve and execute all summonses, orders, warrants, and executions delivered to him by the clerk, and shall so soon as served or executed return the same to the clerk; but, subject to the provisions of section 72, he shall not be required to travel beyond the limits of his division, or be allowed to charge mileage for any distance beyond the limits of the county in which is situated the division for the court of which he is bailiff. R.S.O. 1897, c. 60, s. 54.

Bailiffs to serve writs.

Fees of Clerks and Bailiffs, etc.

47.—(1) The clerk and the bailiff shall be paid by fees, as provided and allowed by the general rules or orders heretofore in force or hereafter to be made by the Board of County Judges, and approved under the provisions of this Act.

Clerks and Bailiffs to be paid by fees.

(2) A table of the fees shall be kept posted up in some conspicuous place in the office of the clerk. R.S.O. 1897, c. 60, s. 56.

Table of fees to be posted up in Clerk's office.

(3) Until otherwise provided by general rule or order, the fees to be taken and received by appraisers shall be as follows:—

Fees of appraisers.

To each Appraiser, during the time actually employed in appraising goods (to be paid in first instance by the plaintiff and allowed as costs in the cause).....One dollar per day.

R.S.O. 1897, c. 60, s. 56.

48.—(1) Where the claim sued for, exclusive of interest and costs, does not exceed \$10, the tariff of clerk's or bailiff's

Cases where amount involved not more than \$25.

fees

fees shall not apply, except the fees for mileage to a bailiff, the fees for enforcing a warrant of attachment, warrant against the body or summons in replevin and the fee allowed to the clerk for receiving papers from another division for service, entering the same, handing the same to the bailiff and receiving and entering his return.

Fees of Clerks
and Bailiffs.

(2) The fees taxable to the clerk and bailiff in an action in which the sum sued for as aforesaid does not exceed \$10 shall, except as hereinbefore provided, be as follows:

To the clerk for any and all services rendered by him as such clerk from the time of entering the action or suing out an interpleader summons up to and including the entering of final judgment or final order on any such judgment, or summons in case the action proceeds to judgment, or final order \$1.25

In case the action does not proceed to judgment or final order the fees heretofore or that may hereafter be payable, but not exceeding in the whole the said sum.

For issuing writ of execution, warrant of attachment or warrant for arrest of delinquent and entering the return thereto... .50

To the bailiff for all services rendered by him as such bailiff in serving the summons and making his return thereof to the clerk of the court or any other service that may be necessary before judgment is entered by the clerk or pronounced by the Judge, mileage excepted50

For enforcing writ of execution, schedule of property seized or attached, bond where necessary acts done by him after seizure, mileage excepted, if money made or case settled after levy 1.00

Necessary disbursements incurred in the care and removal of property shall be allowed, to be first allowed by the clerk subject to the approval of the Judge.

R.S.O. 1897, c. 60, s. 57.

By whom fees
to be paid in
first instance.

49.—(1) The fees upon every proceeding shall be paid in the first instance, and before it is taken, by the party on

whose

whose behalf the proceeding is taken. R.S.O. 1897, c. 60, s. 58.

(2) If the fees are not so paid, payment may, by summary order of the Judge, be enforced by execution in like manner as the judgment of the court. R.S.O. 1897, c. 60, s. 59. How enforced.

50. At the time of the issue of any process or execution the bailiff's fees thereon shall be paid to the clerk, and shall be paid over to the bailiff, upon the return of the execution, and not before; but if the bailiff does not become entitled to any part, or becomes entitled to a part only of such fees, the whole, or the surplus, as the case may be, shall be repaid by the clerk to the person from whom the fees were received. R.S.O. 1897, c. 60, s. 60. Bailiff's fees to be paid to Clerk when execution issues.

51. If the bailiff neglects to return any process or execution within the time required by law he shall for such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the clerk, who shall keep a special account thereof, and account for and pay over the same to the Clerk of the Peace, to be paid to the Treasurer of the Province, to form part of the Consolidated Revenue Fund. R.S.O. 1897, c. 60, s. 61. Bailiff to forfeit fees if he neglects to return writ.

52. A clerk or bailiff shall not directly or indirectly take or receive any commission, charge, fee or reward for or in connection with the collection of any debt or claim which has been or may or can be sued in the court for which he is clerk or bailiff, except such fees as are provided by a tariff of fees under this Act. R.S.O. 1897, c. 60, s. 62. Clerk or Bailiff not to accept extra fees.

INSPECTOR.

53. The Lieutenant-Governor in Council may appoint an Inspector of Division Courts, whose duty shall be: Appointment of Inspector. Duties.

(a) To make a personal inspection of every Division Court and of the books and papers thereof; Inspection of offices.

(b) To see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a correct manner, at suitable times, and in proper form and order, and that the papers and documents are properly classified and preserved; Books, etc.

(c) To see that the duties of the officers of the courts are efficiently performed and that the office is at all times duly attended by the clerk; Officers' duties.

(d)

- Lawful fees. (d) To see that lawful fees only are taxed or allowed as costs;
- Security by Clerks and Bailiffs. (e) To see that proper security is furnished and maintained on behalf of every clerk and bailiff;
- Destruction of useless papers. (f) When authorized by the Lieutenant-Governor in Council so to do, to direct that any papers or documents which it is unnecessary to preserve be destroyed. (*New.*)
- Report to Lieutenant-Governor. (g) To report upon all such matters to the Lieutenant-Governor. R.S.O. 1897, c. 60, s. 63.

Power of Inspector in making inquiry into conduct of officers.

54. Where the Inspector considers it expedient to institute an enquiry into the conduct of a clerk or bailiff he may require him and any other person to give evidence on oath, and for that purpose shall have the same power as any court has in civil cases, to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents, and to give evidence. R.S.O. 1897, c. 60, s. 64.

Books, etc., to be produced for inspection.

55. Every clerk and bailiff shall, as often as required by the Inspector, produce at the clerk's office, for examination and inspection, all books and documents required to be kept by him, and shall report to the Inspector concerning such matters as the Inspector shall require. R.S.O. 1897, c. 60, s. 65.

Officers to inform Inspector of their appointment, etc.

56. Every clerk and bailiff, within five days after his appointment, shall inform the Inspector of his appointment, of his full name and post office address, and of the names of his sureties, their occupations, places of residence, and post office addresses. R.S.O. 1897, c. 60, s. 66.

Inspector to be informed of new sureties.

57. When a clerk or bailiff has given new sureties, he shall immediately inform the Inspector of the change, giving the names of the sureties, their occupations, places of residence, and post office addresses. R.S.O. 1897, c. 60, s. 67.

Officers to produce certificate of filing covenant, etc.

58. Every clerk and bailiff shall have and keep in his possession or custody the certificate of the Clerk of the Peace mentioned in section 27, and shall produce the same for the information of the Inspector when required so to do. R.S.O. 1897, c. 60, s. 68.

Clerk to make returns to Lieutenant-Governor.

59. Every clerk shall, on or before the 15th day of January in each year, make a return in such form and manner as the Lieutenant-Governor in Council shall prescribe of the business

ness of his office for the year which ended on the 31st day of December next preceding. R.S.O. 1897, c. 60, s. 69.

60. Every clerk and bailiff shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, and shall, on the 15th day of January in every year, make a return under oath to the Inspector, showing the aggregate amount of fees, charges and emoluments which he became entitled to receive during the year which ended on the 31st day of December next preceding. R.S.O. 1897, c. 60, s. 70.

Clerks and
bailiffs' returns
to Inspector.

JURISDICTION.

61. The court shall not have jurisdiction in any of the following cases:—

Cases in which
Court has no
jurisdiction.

- (a) An action for the recovery of land or an action in which the right or title to any corporeal or incorporeal hereditaments, or any toll, custom or franchise comes in question;
- (b) An action in which the validity of any devise, bequest or limitation under any will or settlement is disputed;
- (c) An action for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage.
- (d) An action against a Justice of the Peace for anything done by him in the execution of his office, if he objects thereto. R.S.O. 1897, c. 60, s. 71.
- (e) An action upon a judgment or order of the High Court or a County Court where execution may issue upon or in respect thereof. 61 V. c. 15, s. 9.

62.—(1) Save as otherwise provided by this Act, the court shall have jurisdiction in:

Cases in which
the Court has
jurisdiction.

- (a) A personal action where the amount claimed does not exceed \$60;
- (b) A personal action if all the parties consent thereto in writing, and the amount claimed does not exceed \$100;
- (c) An action on a claim or demand of debt, account or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where

where the amount or balance claimed does not exceed \$100; provided that in the case of an unsettled account the whole account does not exceed \$600:

- (d) An action for the recovery of a debt or money demand where the amount claimed, exclusive of interest whether the interest is payable by contract or as damages, does not exceed \$200 and the amount claimed is
- (i) Ascertained by the signature of the defendant or of the person whom as executor or administrator he represents or—
 - (ii) The balance of an amount not exceeding \$200, which amount is so ascertained or—
 - (iii) The balance of an amount so ascertained which did not exceed \$400 and the plaintiff abandons the excess over \$200.

An amount shall not be deemed to be so ascertained where it is necessary for the plaintiff to give other and extrinsic evidence beyond the production of a document and proof of the signature to it.

The jurisdiction conferred by this clause shall apply to claims and proceedings against an absconding debtor.

- (e) An action or contestation for the determination of the right of a creditor to rank upon an insolvent estate where the claim of the creditor does not exceed \$60.

Combining
causes of action.

(2) Claims combining

- (a) Causes of action in respect of which the jurisdiction is by the foregoing subsection of this section limited to \$60, hereinafter referred to as class (a);
- (b) Causes of action in respect of which the jurisdiction is by the said subsection limited to \$100, hereinafter referred to as class (b);

(c)

- (c) Causes of action in respect of which the jurisdiction is by the said subsection limited to \$200, hereinafter referred to as class (c),

may be joined in one action; provided that the whole amount claimed in respect of class (a) does not exceed \$60; and that the whole amount claimed in respect of classes (a) and (b) combined, or in respect of class (b), where no claim is made in respect of class (a), does exceed \$100, and that the whole amount claimed in respect of classes (a) and (c) or (b) and (c) combined, does not exceed \$200, and that in respect of classes (b) and (c) combined, the whole amount claimed in respect of class (b) does not exceed \$100.

- (3) The findings of the court upon claims so joined shall be separate. Separate findings on combined claims.

- (4) The court shall also have jurisdiction in actions of replevin, where the value of the goods or other property or effects distrained, taken or detained, does not exceed \$60, as provided in *The Replevin Act*. R.S.O. 1897, c. 60, s. 72. Jurisdiction in replevin. 9 Edw. VII., c. 38.

- (5) The court shall also have jurisdiction in actions between teachers and school boards as provided by *The High Schools Act*, *The Public Schools Act*, and *The Separate Schools Act*. Action between teachers and school boards. 9 Edw. VII., c. 91, 89. Rev. Stat., c. 294.

63. Except in actions in which a jury is demanded, as hereinafter provided, the Judge shall hear and determine in a summary way all questions of law and fact and may make such order or judgment as appears to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R.S.O. 1897, c. 60, s. 73. Judge to try.

64. Upon a contract for the payment of a sum certain in labour or in any kind of goods or commodities or in any other manner than in money, the Judge may give judgment for the amount in money as if the contract had been so expressed, if the goods and commodities have not been delivered or the labour or other thing performed in accordance with the contract. R.S.O. 1897, c. 60, s. 74. Judge may order payment in money although contract not for payment in money.

65.—(1) The court in actions otherwise within its jurisdiction shall have power to grant relief, redress, or remedy or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, in as full and ample a manner as might be done in the like case by the High Court. R.S.O. 1897, c. 60, s. 75. Powers of Courts.

Courts not to grant injunctions or receiver.

(2) Nothing in this section shall confer jurisdiction to grant an injunction or to appoint a receiver. 61 V. c. 15, s. 1.

Minors may sue for wages.

66. A minor may sue for any sum not exceeding \$100 due to him for wages, or for work or services, as if he were of full age. R.S.O. 1897, c. 60, s. 78.

Causes of action not to be divided.

67.—(1) A cause of action shall not be divided into two or more actions for the purpose of bringing the same within the jurisdiction of the court.

Principal and interest may be sued for separately.

(2) Where a sum for principal and also a sum for interest is due and payable to the same person upon a mortgage, bill, note, bond or other instrument, he may, notwithstanding anything in this section contained, but subject to the other provisions of this Act, sue separately for every sum so due. R.S.O. 1897, c. 60, s. 79.

Judgment to be full discharge.

68. A judgment in an action brought for the balance of an account, or for a part of a claim, where the residue is abandoned to bring the claim within the jurisdiction of the court, shall be a full discharge of all demands in respect of the account for the balance of which such action was brought, or for the whole claim, as the case may be. R.S.O. 1897, c. 60, s. 80.

Transfer of actions to High Court.

69.—(1) Where it appears at any stage of an action otherwise of the proper competence of the court that the court has not cognizance thereof on account of the title to land or any corporeal or incorporeal hereditament, or any toll, custom or franchise coming in question, or the validity of a devise, bequest or limitation under a will or settlement being disputed, the action shall not on that account be dismissed, but a Judge of the High Court, or the Judge of the court in which the action is pending, may order the same to be transferred to the High Court upon such terms as to the payment of costs or otherwise as he may think fit, and thereafter the action shall proceed in the High Court as if originally commenced therein, and as if the defendant had entered an appearance; but the High Court or a Judge thereof may give such directions as to procedure as may be deemed proper. R.S.O. 1897, c. 60, s. 81.

Appeal from order.

(2) Where the order is made by a Judge of the Division Court an appeal shall lie therefrom to a Judge of the High Court in Chambers who may rescind the order or vary the terms thereof. (*New.*) (*See* R.S.O. 1897, c. 55, s. 30 (3).)

Action may be removed into High Court in certain cases.

70. If it appears to a Judge of the High Court that an action is a fit one to be tried in the High Court, he may order
that

that it be transferred into the High Court upon such terms as to payment of costs or otherwise as he may think fit. R.S.O. 1897, c. 60, s. 82.

71.—(1) Where a defence or counter-claim involves matter beyond the jurisdiction of the court, the Judge may order that the whole case be transferred to the High Court or to the County Court of the county within which the division is situate. Duty of Court where defence or counter-claim involves matter beyond jurisdiction.

(2) If it appears that a defence or counter-claim is frivolous or vexatious, the Judge, instead of proceeding under subsection 1, may order that the defence or counter-claim be struck out, but an order made under this subsection shall not be a bar to an action by a defendant for the recovery of the claim which formed the subject matter of the set off or counter-claim. R.S.O. 1897, c. 60, s. 76. Frivolous defence.

(3) It shall not be necessary that any pleading be delivered into the court to which the action is transferred unless the court or a Judge thereof so directs. (*New.*) Pleadings in action transferred to High Court.

[*As to removal into High Court, see Chap. 51, sec. 186.*]

PROCESS AND PROCEDURE.

Division in which action to be entered.

72.—(1) An action may be entered and tried

(a) In the court for the division in which the cause of action arose or in which the defendant, or any one of several defendants, resides or carries on business at the time the action is brought; or In what court actions may be entered and tried.

(b) In the court the place of sitting whereof is the nearest to the residence of the defendant. R.S.O. 1897, c. 60, s. 84. Actions may be brought and tried in the court nearest to the defendant's residence.

Provided that any action for wages of a woodman may be entered and tried in the Court holden for the division in which the contract of hiring was made, notwithstanding any stipulation in the contract of employment or otherwise. In this section "woodman" shall mean a person performing labour or services in connection with any logs or timber, and shall include cooks, blacksmiths, artisans and all others usually employed in connection with such labour or services. Place of trial in action for wages of woodman.
Interpretation of "woodman."
9 Edw. VII., c. 33, s. 1.

(2) In the cases provided for by clause *b* of subsection 1 and by subsection 2 of section 80, the summons may be Service of summons in such case

Execution.

be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor, and all other process and proceedings to enforce payment of the judgment, may be issued to the bailiff of such court, and be executed and enforced by him in the county in which the debtor resides, as well as in the county in which the judgment was recovered. R.S.O. 1897, c. 60, s. 85.

When actions may be brought in other than the regular divisions.

73. If a person desires to bring an action in the court of a division other than as in the next preceding section mentioned, the Judge may by order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of the defendants resides, whether such defendant resides in the county of the Judge granting the order or in an adjoining county. R.S.O. 1897, c. 60, s. 86.

Effect of agreement as to place of trial.

74. No proviso, condition, stipulation, agreement or statement which provides for the place of trial of an action, matter or proceeding shall be of any force or effect unless and until the defendant within the time limited for disputing the plaintiff's claim or within such further time as the Judge shall allow, files with the clerk of the court in which the action was commenced, a notice disputing the jurisdiction of the court and an affidavit of the defendant or his agent stating that in his belief there is a good defence to the action on the merits, and the division wherein the cause of action arose, or partly arose, and the division where the defendant resides. 6 Edw. VII., c. 19, s. 22 (1).

Actions when defendant resides out of the Province

75.—(1) Where it is provided that a claim may be entered, or an action brought, or that a person may be sued in a Division Court, the action may be brought, notwithstanding that the residence of the defendant is, at the time of bringing the action, out of Ontario, and the action may be brought in the court of the division in which the cause of the action arose or partly arose.

Service of summons on non-residents.

(2) The service of the summons may be made by a bailiff of the court out of which it issued or by any person who may, either before or after the service, be approved by the Judge or by the clerk, but such summons shall be served at least fifteen days before the return day thereof.

Proof of service.

(3) The affidavit of service, if not made in Ontario, may be sworn before any officer or person having authority to administer oaths under *The Evidence Act*.

9 Edw. VII., c. 43.

(4) Where service of the summons has been effected out of Ontario, the Judge may allow, as costs in the action, a sum towards the expenses incurred in effecting service, not exceeding in the whole five dollars. R.S.O. 1897, c. 60, s. 87.

Allowance for service out of Ontario.

76. Where the defendant is a corporation not having its head office in Ontario, and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. R.S.O. 1897, c. 60, s. 88.

Where defendant is a corporation the head office of which is not in the Province.

77.—(1) Where the debt or money payable exceeds \$100, and is made payable by the contract of the parties at a place named therein, the action may be brought thereon in the court of the division in which the place of payment is situate, subject, however, to the action being transferred to the court of any division in which but for this section it might have been brought.

Place of trial where amount sued for exceeds \$100.

(2) The Judge of the court in which the action is brought may, upon application of the defendant made within the time limited for disputing the plaintiff's claim, make an order transferring the action accordingly.

Changing place of trial in such cases.

(3) The application shall be supported by an affidavit of the applicant or his agent stating that the applicant intends to defend the action, that there is a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, and that the witnesses for the defence, or some of them, reside within the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay; the dates of the next two sittings of the court to which it is sought to have the action transferred shall also be shown.

Affidavit in support of application.

(4) The order shall direct at what sittings of the court the action shall be tried, subject to all rights of postponement as in other cases, and shall be attached by the clerk to the summons and other proceedings in the action, and he shall forthwith transmit them to the clerk of the court to which the action is transferred, and enter a minute thereof in his procedure book.

Order and papers to be transmitted to Clerk.

(5) Upon receipt of the order and other papers by the clerk of such last mentioned court he shall enter the action and proceedings in his procedure book.

To be entered in procedure book.

(6) All the papers and proceedings in the action thereafter shall be entitled and carried on as though the action had originally been entered in the last mentioned court.

Entitling papers

Order to
be serve

(7) The defendant shall forthwith serve a copy of the order upon the plaintiff or his agent. R.S.O. 1897, c. 60, s. 90.

[*As to actions on insurance premium notes and assessments, see R.S.O. 1897, c. 203, s. 138.*]

NOTICE WHERE JURISDICTION DISPUTED.

Notice where
jurisdiction of
court disputed
to be given.

78. Where a defendant or a garnishee intends to contest the territorial jurisdiction of the court, he shall leave with the clerk, within eight days after the day of service of the summons on him (where the service is required to be ten days before the return), or within twelve days after the day of such service (where the service is required to be fifteen or more days before the return), a notice in writing that he disputes the jurisdiction of the court, and the clerk shall forthwith give notice thereof to the plaintiff or his agent in the same way as notice of defence is given, and in default of such notice, the jurisdiction shall be considered as established and determined, and all proceedings may thereafter be taken as fully and effectually as if the action had been properly entered or taken in such court. R.S.O. 1897, c. 60, s. 205.

When action
entered in
wrong Court.

79.—(1) If it appears that an action should have been entered in some other court of the same or some other county, it shall not fail for want of jurisdiction but, on such terms as the Judge shall order, all the papers and proceedings in the action may be transferred to any court having jurisdiction in the premises, and shall become proceedings thereof as if the action had been entered therein, and shall be continued as if it had originally been entered in the last mentioned court.

Clerk to place
on list and
notify parties.

(2) The clerk of the court to which the proceedings have been transferred, shall place the action on the list for trial at the next sittings of his court which commences six clear days or more after he receives his papers, and he shall forthwith after receiving the papers notify the parties or their agents by registered post of the date, hour and place of the sittings, and the clerk issuing the summons shall certify in detail to the court to which the action is transferred all the costs incurred up to the date of the transfer. R.S.O. 1897, c. 60, s. 91.

Clerks and
Bailiffs may
sue and be sued
in adjoining
divisions.

80.—(1) A clerk or bailiff shall not sue or be sued in the court of which he is clerk or bailiff.

(2) A clerk or bailiff shall sue or be sued separately or jointly with another person in the court of any next adjoining division whether in the same or another county.

(3)

(3) Nothing in this section contained shall prevent proceedings from being continued in the court in which the action was brought, where it was commenced before the appointment of such clerk or bailiff. R.S.O. 1897, c. 60, ss. 92, 93.

Actions by and against Clerks and Bailiffs commenced before appointment.

81. An action by or against a Judge may be brought in any court of a county adjoining that in which he resides. R.S.O. 1897, c. 60, s. 94.

Action against County Judge.

82. Unless otherwise provided, every notice required by this Act shall be in writing. R.S.O. 1897, c. 60, s. 97.

Notices to be in writing.

Entry of Claim, Service, etc.

83.—(1) The plaintiff shall enter his claim with the clerk and at the same time shall deliver to him a copy (and if necessary, copies) of his account, claim or demand in writing in detail (and in cases of tort, particulars of his demand) and each claim shall be numbered according to the order in which it is entered, and a summons in the prescribed form shall be issued, bearing the number of the claim on the margin thereof, and on the trial no evidence shall be given of any cause of action except such as is contained in the claim so entered.

Entry of claim with Clerk.

(2) In an action on a promissory note, bill of exchange or cheque, the same shall be filed with the clerk before judgment, unless otherwise ordered, or unless it be shown that the note, bill or cheque is lost, or that it cannot for some other reason be produced. R.S.O. 1897, c. 60, s. 98.

Promissory note, etc., to be filed before judgment.

84. The clerk shall annex the plaintiff's account or particulars to the summons, and shall deliver copies of the summons and account or particulars to the proper person to serve the same. R.S.O. 1897, c. 60, s. 99.

Plaintiff to furnish particulars of claim to the Clerk for service.

85. The summons, with a copy of the account or particulars attached, shall be served ten days at least before the return day thereof, and, where a defendant resides out of the county in which the action is brought, fifteen days at least before the return day thereof. R.S.O. 1897, c. 60, ss. 100, 101.

Summons to be served ten days before return day.

When summons to be served if defendant resides out of county.

86. There shall be endorsed upon the summons a notice informing the defendant that any application to change the place of trial must be made within the time limited for disputing the plaintiff's claim. R.S.O. 1897, c. 60, s. 102.

Endorsement upon summons.

87. Where the amount of the claim exceeds \$15, the service shall be personal, and where the amount does not exceed

When service to be personal or otherwise.

exceed \$15 the service may be on the defendant, his wife or servant, or on a grown-up inmate of the defendant's dwelling-house or usual place of abode or business. R.S.O. 1897, c. 60, s. 103.

General Provisions.

Substitutional
service.

88. The Judge may make an order for substitutional service or for service by advertisement or otherwise. 62 V. (2), c. 11, s. 8.

Service of process, etc., on corporations.

89.—(1) Every summons or process against a corporation, firm or individual whose chief place of business is not within Ontario, and all subsequent papers and proceedings in the action, may be served on the agent of the corporation, firm or individual whose office or place of business as such agent is either within the division from the court of which the summons or process issued, or is nearest thereto.

Interpretation
"Agent."

(2) For the purpose of this section the word "agent" shall include,

- (a) In the case of a railway company a station-master having charge of a station of the company;
- (b) In the case of a telegraph company, a person having charge of a telegraph office of the company; and
- (c) In the case of an express company, a person having charge of an express office of the company. R.S.O. 1897, c. 60, s. 105.

Postage.

90. The postage on papers required to be served out of the division, and sent by mail for service, shall be costs in the cause. R.S.O. 1897, c. 60, s. 106.

Bailiff *pro tempore*.

91.—(1) Where there is no Bailiff or the Bailiff is under suspension, the Judge may appoint a Bailiff *pro tempore* to perform

- (a) All the duties of Bailiff; or
- (b) Any particular duty.

Clerk may act as bailiff.

(2) The clerk may also exercise the powers conferred by clause (b). R.S.O. 1897, c. 60, s. 107.

Duties of
Bailiff *pro tempore*.

(3) The person appointed under clause (a) of subsection 1 shall perform all the duties required to be performed by a bailiff. R.S.O. 1897, c. 60, s. 108.

92. The clerk shall prepare an affidavit of service of every summons issued out of his court, or sent to him for service, stating how the same was served, the day of service, and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or indorsed on the summons and shall be sworn to by the bailiff; but the Judge may require the bailiff to be sworn in his presence, and to answer such questions as may be put to him touching any service or mileage. R.S.O. 1897, c. 60, s. 109.

Clerk to prepare affidavits of service, etc.

Partners.

93.—(1) In case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, who reside in different divisions, or of whom one or more cannot be found, one or more of such persons may be sued or served with process, and judgment may be obtained and execution issued against him or them, notwithstanding that others jointly liable have not been sued or served, without prejudice to the right of the person against whom execution issues to demand contribution from any other person jointly liable with him. R.S.O. 1897, c. 60, s. 110.

One or more of persons jointly liable may be sued.

(2) Where a judgment has been obtained against one or more of several partners under the provisions of subsection 1, and the Judge certifies that the demand proved was a partnership transaction, the bailiff may, under the execution, seize and sell the property of the firm, as well as that of any defendant who has been served. R.S.O. 1897 c. 60, s. 111.

Bailiff may seize property of firm on certificate of Judge.

(3) Two or more persons claiming or being liable as co-partners may sue or be sued in the name of the firm of which such persons were co-partners at the time of the accruing of the cause of action. R.S.O. 1897, c. 60, s. 112, (4), *part.*

Service on parties added.

(4) Where partners are sued in the name of the firm, the summons may be served on one or more of them or at the principal place within Ontario of the business of the partnership, or upon any person having control of the partnership business there and, subject to the provisions of subsections 6 and 7, such service shall be deemed good service upon the firm, and the affidavit of the service of the summons shall state the name of the person served. R.S.O. 1897, c. 60, s. 112 (4), *part.*

Partners sued in name of firm.

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the names

Order to furnish names and addresses.

names

names and addresses of the persons who are co-partners in any firm which is a party to the action by the firm name, to be furnished in such manner as the Judge may direct. R.S.O. 1897, c. 60, s. 112, *part*.

When partnership dissolved.

(6) In the case of a partnership which to the knowledge of the plaintiff has been dissolved before action the summons shall be served upon every person within Ontario sought to be made liable. Con. Rules, Sup. Court 223.

Notice of capacity in which person served.

(7) Where a summons is issued against a firm and is served as directed by this section, every person upon whom it is served shall be informed by notice given at the time of service whether he is served as a partner or as a person having control or management of the partnership business or in both characters, and in default of such notice the person served shall be deemed to be served as a partner. Con. Rules, Sup. Court, 224.

Attachment of debts due by firm.

(8) Debts owing from a firm carrying on business within Ontario may be attached under section 146, although one or more members of the firm may be resident out of Ontario, provided that some person having the control or management of the partnership business or a member of the firm within Ontario is served with the attaching order. Con. Rules, Sup. Court, 229.

Execution against partners.

94.—(1) Where a judgment is against a firm, subject to the provisions of section 95, execution may issue against the property of

(a) The partnership;

(b) Any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;

(c) Any person who has been individually served as a partner with a copy of the summons and who has not filed a notice of dispute or defence. R.S.O. 1897, c. 60, s. 112 (5).

Order to issue execution against other members.

(2) If the party who has obtained a judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply for leave to do so, and the Judge may give such leave if the liability be not disputed, or, if disputed, after the liability has been determined in such manner as he may direct. Con. Rules, Sup. Court, 228 (2, *part*).

95. Except as against the property of the partnership, a judgment against a firm shall not render liable, release, or otherwise affect any member thereof who was out of Ontario when the summons was issued, and who has not entered a defence to the action, unless he has been made a party under section 96, or has been served within Ontario after the summons was issued. Con. Rules, Sup. Court, 228 (2) *part.*

96.—(1) A person, whether or not a British subject, and whether residing in or out of Ontario, carrying on business within Ontario under a name or style other than his own name, may be sued in such name or style.

(2) Leave shall not be necessary to issue the summons. Leave to issue summons not required.

(3) The summons may be served upon the person so carrying on business if he be within Ontario, or at his place of business within Ontario, or, if there are several such places, at the place in or nearest to the county in which the cause of action arose, upon any person having the control or management of the business there, and such service shall be equivalent to personal service on the person so sued. Service of summons.

(4) The person upon whom the summons is served shall be informed by notice given at the time of service whether he is served as the person carrying on the business or as the person having the control or management of it or in both characters and in default of such notice he shall be deemed to be served as the person carrying on the business. Notice of character in which person served.

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the name and address of the person who is, and of the person who, at the time of the accruing of the cause of action, was carrying on business under such name or style, to be furnished in such manner as the Judge may direct. Procuring name and address of person carrying on business.

(6) The person so sued shall enter a dispute in his own name, but all subsequent proceedings shall continue in the said name or style. Person served to appear in his own name.

(7) A person served as the person carrying on the business may enter a defence under protest, denying that he is the person so carrying on the business, but such defence shall not preclude the plaintiff from otherwise serving the person sued or from obtaining judgment in default of defence in the ordinary form by the person so sued. Defence under protest.

(8)

When person served is not carrying on the business.

(8) Where a summons is served under subsection 3 on a person having the control or management of but not carrying on the business, a dispute by him shall not be necessary.

Enforcement of judgment, what property exigible.

(9) A judgment or order in the action may be enforced by execution against

(a) The property of the person so sued, used or employed in or in connection with the business and

(b) The property within Ontario of the person so sued if he has entered a defence in the action, or has been adjudged to be the person carrying on the business or has been personally served with the summons within Ontario and has failed to enter a defence.

Issuing execution against person alleged to be carrying on the business.

(10) If the person so sued has not entered a dispute or has not been personally served, or has not been adjudged to be the person carrying on the business, the plaintiff may apply for leave to issue execution against the person within Ontario whom the plaintiff alleges to be the person carrying on the business, and the Judge may give such leave if the liability be not disputed, or, if disputed, after the liability has been determined, in such manner as the Judge may direct. Con. Rules, Sup. Court, 231.

Adding Parties.

Striking out and adding parties.

97.—(1) The Judge may at any stage of the proceedings, upon such terms as may appear to him to be just, order that the name of the plaintiff, defendant, or garnishee improperly joined be struck out, and that any person who ought to have been joined or whose presence is necessary in order to enable the Judge effectually and completely to adjudicate upon the questions involved in the action be added as plaintiff, defendant, or garnishee. R.S.O. 1897, c. 60, s. 112.

Substituting or adding plaintiff.

(2) Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the Judge, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as he may deem just. Rules of the Supreme Court, 1883 (Eng.), O. 16, R. 2.

(3) No person shall be added or substituted as a plaintiff or as a next friend, unless his own consent in writing thereto be filed. Consent of party added required. Con. Rules, Sup. Court, 206, subsections 2 and 3.

(4) A person who is added as a defendant or garnishee, shall be served with a copy of the summons, the original summons being first amended, and the proceedings against him shall be deemed to have been commenced from the date of the order making him a party; but if the application to add any person as a party defendant or garnishee be made at the trial, the Judge may make the order in a summary manner upon such terms as to him may seem just, and may dispense with the service of a copy of the summons if such person or his agent consents thereto. Service on parties added. R.S.O. 1897, c. 60, s. 112 (3).

Judgment by Default Where Summons Specially Endorsed.

98.—(1) In actions for the recovery of a debt or money demand, where the particulars of claim, with reasonable certainty and detail, are endorsed on or attached to the summons, hereinafter called a special summons, and a copy of the summons and particulars, with a notice in the prescribed form, annexed to or endorsed on such copy has been duly served, then, unless the defendant has left with the clerk, within eight days after the day of service (where the service is required to be ten days before the return), or within twelve days after the day of service (where the service is required to be fifteen days before the return), a notice to the effect that he disputes the claim, or some part, and how much thereof, final judgment may be entered by the clerk on the return of the summons, or at any time within one month therefrom, or, by order of the Judge, at any time thereafter for the amount claimed in the particulars, or so much thereof as has not been disputed, and execution may issue thereon without prejudice to the right of the plaintiff to proceed for the remainder of his claim. In proceedings by special summons final judgment entered by the clerk when claim in whole or in part not disputed, etc. R.S.O. 1897, c. 60, s. 113.

(2) The judgment shall be in the prescribed form, but shall not be entered until the special summons and particulars with an affidavit of the due service of both have been filed. Summons, particulars and affidavit to be filed. R.S.O. 1897, c. 60, s. 114.

(3) The Judge may set aside such judgment and permit the case to be tried, on such terms as to him may seem just. Judge may set aside judgment. R.S.O. 1897, c. 60, s. 114.

Judgment
by default under
s. 100, where
final judgment
not entered.

99. Where proof is made by affidavit or otherwise of the service of a special summons, and of the particulars of the plaintiff's claim as required by section 100, and judgment has not been entered under the provisions of the said section, the Judge may, if the defendant does not in person or by agent appear in open court, as required by the summons, give judgment against him by default, without requiring proof of the plaintiff's claim. R.S.O. 1897, c. 60, s. 115.

Motion for
judgment.

100.—(1) In any action commenced by special summons for the recovery of a debt or money demand of \$25 or upwards, the plaintiff, on an affidavit made by himself or any other person swearing positively to the facts and verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action, and the reasons why immediate judgment should be granted, may concurrently with the service of the special summons, or at any subsequent time, serve the defendant with a notice of motion, returnable not less than four clear days after service, to shew cause before the Judge why the plaintiff should not be at liberty to have final judgment entered by the clerk for the amount of the debt or money demand sought to be recovered, together with interest, if any, and costs. A copy of the affidavit shall be served with the notice of motion. The Judge thereupon, if the reasons for immediate judgment appear to be sufficient, unless the defendant or his agent by affidavit or otherwise satisfies him that the defendant has a good defence to the action on the merits or discloses such facts as may be deemed sufficient to entitle him to defend the action, may make an order empowering the clerk to sign final judgment.

How defendant
may shew
cause.

(2) The defendant may shew cause by offering to bring into court the amount sought to be recovered, or by affidavit which shall state whether the defence he alleges goes to the whole or to part only, and if to part only, then to what part of the claim. The Judge may, if he thinks fit, order the defendant to attend and be examined upon oath, and to produce any books and documents, or copies thereof, or extracts therefrom.

Partial defence.

(3) If it appears that the defence applies only to a part of the claim, or that part of the claim is admitted to be due, the plaintiff shall be entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs or otherwise, as to the Judge may seem just; and the defendant may be allowed to defend as to the residue of the claim.

(4) If it appears to the Judge that a defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to have judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

Where one defendant has good defence.

(5) Leave to defend may be given unconditionally, or subject to such terms as to giving security or otherwise, as to the Judge may seem just. R.S.O. 1897, c. 60, s. 116.

Terms upon giving leave to defend.

(6) Within seven days after making the order, and upon good grounds being shewn, the Judge may set aside or vary the order upon such terms as to him may seem just. 61 V. c. 15, s. 5.

Setting aside or varying order.

101. At any time before judgment is entered although the time for giving the notice disputing the plaintiff's claim has expired, the Judge, on sufficient grounds shewn, and on such terms as to him may seem just, may give leave to the defendant to dispute the plaintiff's claim, in which case the notice disputing the claim shall immediately be left with the clerk, and also delivered to the plaintiff or sent to him by registered post. R.S.O. 1897, c. 60, s. 117.

Leave to dispute claim at any time before judgment.

102. A defendant who has filed a notice disputing the claim may, by notice to the clerk at least six days before the sittings at which the action may be tried, consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by registered post, and thereupon the plaintiff shall be entitled to have judgment entered by the clerk as by default for such amount and the costs necessarily incurred. R.S.O. 1897, c. 60, s. 118.

Withdrawal of defence.

103. Where a defendant or garnishee has given the clerk notice that he disputes the claim, or any other notice of which the plaintiff should be informed before the trial, or where it becomes the duty of the clerk to give notice to any party to an action of any defence, admission, Judge's order or other matter of which he should be notified before the trial, the notice shall state the place and time of the sittings of the court at which the action is to be tried. R.S.O. 1897, c. 60, s. 119.

Requisites of notices.

104. The Judge may at any time and on such terms as to costs and otherwise as to him may seem just, amend any defect or error in any proceeding; and all such amend-

Power to amend proceedings.

ments

ments may be made as may be necessary for the advancement of justice, determining the real question raised by or depending on the proceedings and best calculated to secure the giving of judgment according to the very right and justice of the case. Div. Ct. Rule 239.

Trial.

Judge may summarily dispose of action or non-suit plaintiff.

105. Where a trial is to be had the defendant shall on the day named in the summons, either personally or by agent, appear in the court to answer, and, on answer being made, the Judge shall, without further pleading or formal joinder of issue, proceed in a summary way, to try the action and give judgment; and if satisfactory proof is not given entitling either party to judgment, he may nonsuit the plaintiff. R.S.O. 1897, c. 60, s. 120.

Order in which actions to be tried.

106. The clerk shall place all actions in which the sum sought to be recovered exceeds \$100 at the foot of the trial list, and the Judge shall in such actions, unless an agreement not to appeal has been signed and filed, as provided by section 107, take down the evidence in writing, and leave the same with the clerk, but, in the event of an application for a new trial, it shall be forwarded to the Judge by the clerk for the purposes of the application. R.S.O. 1897, c. 60, s. 121.

Parties may agree not to appeal.

107. An appeal shall not lie if, before the commencement of the trial, there is filed with the clerk an agreement in writing not to appeal, signed by the parties, or their agents, and the Judge shall note in his minutes whether such agreement was so filed or not, and the minutes shall be conclusive evidence upon that point. R.S.O. 1897, c. 60, s. 122.

Proceedings in case defendant does not appear

108. If on the day named in the summons the defendant does not appear, or sufficiently excuse his absence, or if he neglects to answer, the Judge, on proof of due service of the summons and particulars, may proceed with the trial in his absence, and, except where the plaintiff's claim is for unliquidated damages in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the Judge may, in his discretion, give judgment without further proof. R.S.O. 1897, c. 60, s. 123.

Judge may adjourn hearing of cause.

109. The Judge may adjourn the trial of an action, whether it is being tried with or without a jury, to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable him to enter more fully into his case or for any cause

cause which the Judge thinks reasonable, upon such conditions as to payment of costs and admission of evidence, or otherwise, as to him may seem just. R.S.O. 1897, c. 60, ss. 124, 125.

110. A barrister or solicitor or any other person not prohibited by the Judge, may appear at the trial or hearing of an action as agent for any party thereto. R.S.O. 1897, c. 60, ss. 126, 127.

All persons
empowered to
act as agents
or advocates.

Tender and Payment of Money into Court.

111.—(1) If the defendant desires to plead a tender before action of a sum of money in full satisfaction of the plaintiff's claim, he may do so on filing his defence with the clerk at least six days before the day appointed for the trial, and at the same time paying into court the amount mentioned in the defence; and notice of the defence and payment shall be forthwith sent by the clerk to the plaintiff by registered post, or delivered at his usual place of abode or business. R.S.O. 1897, c. 60, s. 128.

Plea of tender
with payment
of money into
Court.

(2) The plaintiff shall be deemed to have accepted the money in full satisfaction of his claim and all proceedings in the action shall be stayed unless, within three days after the receipt of notice of the payment, he signifies in writing to the clerk his intention to proceed for his claim notwithstanding such defence, in which case the action shall proceed. R.S.O. 1897, c. 60, s. 129.

Amount
tendered to be
accepted unless
plaintiff gives
notice.

(3) If the plaintiff does not give the notice mentioned in subsection 2 the money shall be paid to him less \$1 to be paid over to the defendant for his trouble. R.S.O. 1897, c. 60, s. 129, *part*.

When plaintiff
does not give
notice.

(4) The Judge may allow the plaintiff to give the notice to the clerk after the expiration of the said three days on such terms as to him may seem just. (*New*.)

Giving of
notice after
time limited.

(5) If after tender and payment into court the plaintiff proceeds with his action and does not recover more than the sum paid into court, he shall pay the defendant his costs, charges and expenses, and the amount thereof may be paid to the defendant out of the money so paid in, or may be recovered from the plaintiff in the same manner as money payable under a judgment; but, if the plaintiff recovers more than the sum paid into court, the full amount paid into court shall be applied towards the satisfaction of his claim, and judgment may be given against the defendant for the residue and costs of the action. R.S.O. 1897, c. 60, s. 130.

Rule as to costs
where plaintiff
proceeds for
balance.

Defendant may
pay money
into Court.

112.—(1) The defendant may, not less than six days before the day appointed for the trial, pay into court a sum in full satisfaction of the plaintiff's claim, together with the plaintiff's costs up to the time of such payment. R.S.O. 1897, c. 60, s. 131.

Clerk to give
notice of pay-
ment to
plaintiff.

(2) The clerk shall forthwith deliver or send notice of such payment by registered post to the plaintiff, and the sum so paid shall be paid to the plaintiff, and he shall be deemed to have accepted it in full satisfaction of his claim, and all proceedings in the action shall be stayed, unless within three days after the receipt of the notice the plaintiff gives notice to the clerk of his intention to proceed for the remainder of his claim, in which case the action shall proceed. R.S.O. 1897, c. 60, s. 132.

Notice to be
given after
three days.

(3) The Judge may allow the plaintiff to give the notice to the clerk after the expiration of the said three days on such terms as to him may seem just. (*New.*)

Plaintiff to pay
defendant's
costs if no
further sum
recovered.

(4) If the plaintiff recovers no more than the sum paid into court, he shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, to be taxed and recovered by the same means as any other sum ordered by this court to be paid. R.S.O. 1897, c. 60, s. 133.

Set-off and Statutory Defences.

Defendant to
give notice of
set-off or other
statutory
defence.

10 Edw. VII,
c. 34.

113.—(1) Where the defendant desires to avail himself of the law of set-off, or of *The Limitations Act*, or of a defence under any other statute, he shall, not less than six days before the trial, give notice thereof to the plaintiff, or leave the same for him at his usual place of abode or business if within the division, or if the plaintiff lives without the division, shall deliver the same to the clerk; and in case of a set-off the particulars thereof shall be delivered to the clerk and shall accompany the notice to be given to the plaintiff. R.S.O. 1897, c. 60, s. 134.

Evidence
of set-off.

(2) Except by leave of the Judge no evidence of set-off shall be given by the defendant save such as is contained in the particulars delivered. R.S.O. 1897, c. 60, s. 135.

Provisions if
set-off exceeds
amount due
to plaintiff.

(3) If the set-off proved exceeds the amount found to be due to the plaintiff, judgment shall be entered for the defendant for the excess, if the excess be an amount within the jurisdiction of the court; but, if the excess be an amount beyond the jurisdiction of the court, the Judge may order that an amount of the set-off equal to the amount found to be

be due to the plaintiff be satisfied by the claim, but the adjudication shall not be a bar to the recovery by the defendant in a subsequent action for the residue of the set-off. R.S.O. 1897, c. 60, s. 136.

WITNESSES AND EVIDENCE.

Subpœnas.

114. A party may obtain from the clerk of any Division Court in the county a subpœna with or without the clause for the production of books, papers, and documents, requiring any witness, resident within Ontario or served with the subpœna therein, to attend at a specified court or place before the Judge, or an arbitrator appointed by him under the provisions hereinafter contained, and the clerk when requested by a party or his agent shall furnish copies of such subpœna. R.S.O. 1897, c. 60, s. 137.

Parties may obtain subpœnas from clerk.

115. Any number of names may be inserted in a subpœna, and service thereof may be made by any literate person, personally or by leaving a copy thereof at the usual place of abode of the witness, and proof of such service and of tender or payment of witness fees and mileage, may be received by the Judge, either orally or by affidavit. R.S.O. 1897, c. 60, s. 138.

Service of subpœna, by whom made.

116.—(1) Every person served with a copy of a subpœna to or for whom at the time, of such service a tender or payment of his witness fees and mileage has been made, who refuses or neglects without sufficient cause to obey the subpœna, and every person in court called upon to give evidence, who refuses to be sworn or to give evidence, shall be liable to pay such fine not exceeding \$8 as the Judge may order, and shall be also liable to imprisonment for any time not exceeding ten days on the order of the Judge.

Penalty for disobeying subpœna or refusing to be sworn.

(2) The fine shall be levied and collected with costs, by the same process as a judgment recovered in the court and the whole or any part of the fine, after deducting the costs, shall be applicable, in the discretion of the Judge, towards indemnifying the party injured by such refusal or neglect, and the remainder shall form part of the Consolidated Revenue Fund. R.S.O. 1897, c. 60, s. 139.

Enforcing payment of fine.

117. A person served with a subpœna, who is resident in Ontario, but not in the county in which the court is situate, shall be entitled to be paid witness fees and mileage, according to the County Court tariff. R.S.O. 1897, c. 60, s. 140.

Expenses to be paid witness out of county.

Commissions

Commissions to take Evidence.

Power to issue commissions to take evidence.

118.—(1) If a party is desirous of having at the trial or hearing the testimony of a person residing out of Ontario, the Judge, upon hearing the parties, may order the issue of a commission out of and under the seal of the court to a commissioner to take the examination of such person. R.S.O. 1897, c. 60, s. 141.

When commission to take evidence of applicant, etc., may be granted.

(2) An order shall not be made for the issue of a commission for taking the testimony of the party applying therefor, or of any person in his employment, unless in the opinion of the Judge a saving of expenses will be caused thereby, or unless it is clearly made to appear that the party or person is aged, infirm, or unable from sickness to appear as a witness. R.S.O. 1897, c. 60, s. 142.

Examination of witnesses whose attendance at trial cannot be obtained.

(3) If it is made to appear to the Judge that a material and necessary witness residing in Ontario is sick, aged, or infirm, or that he is about to leave the Province, and that his attendance as a witness cannot be procured, the Judge may make an order appointing a suitable person to take his testimony.

Examination of witness residing at a distance from place of trial.

(4) An order may also be obtained for the examination of a witness who resides in a remote part of Ontario, and at a great distance from the place of trial, if it be made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or so great that the party desiring his attendance should not, under the circumstances, be required to incur the same. R.S.O. 1897, c. 60, s. 144.

Service of order.

(5) A copy of the order, with two days' notice of the time and place of the examination, shall be served upon the opposite party, or his agent, who may appear, and cross-examine the witness. R.S.O. 1897, c. 60, s. 143.

Rules made applicable to commissions.

(6) The provisions of the Rules of the Supreme Court, so far as the same are applicable, shall apply to every commission or order issued under the authority of this section. R.S.O. 1897, c. 60, s. 145.

Costs of commission.

(7) The costs of the issue, transmission, execution and return of any commission issued or order made under the provisions of this section shall be in the discretion of the Judge, who may allow a sum in gross therefor; and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered in like manner

as the ordinary costs of an action. R.S.O. 1897, c. 60, s. 147.

Books of Accounts, Affidavits, etc., as Evidence.

119. In an action for a debt or money demand of not more than \$25, and in case of a defence of set-off or of payment so far as the same extends to \$25, the Judge, on being satisfied of their general correctness, may receive the plaintiff's, defendant's or garnishee's books as evidence, and may also receive as evidence the affidavit of any party or witness resident out of the county, but may require the party or witness to answer written interrogatories upon oath. R.S.O. 1897, c. 60, s. 148.

Judge may receive in evidence plaintiff's or defendant's books of account.

120.—(1) Affidavits may be sworn before a clerk or deputy clerk, or before a Justice of the Peace, Notary Public or commissioner for taking affidavits. R.S.O. 1897, c. 60, s. 149.

Affidavits may be sworn before a Clerk, etc.

(2) An affidavit sworn before the agent of the party on whose behalf it was made, or before the clerk or partner of such agent, shall not be used. 62 V. (2), c. 11, s. 7.

Affidavits sworn before agents not to be used.

JUDGE'S DECISION.

121. The Judge shall, in court, openly, and as soon as may be after the trial, pronounce his decision; but if he is not then prepared to pronounce a decision he may postpone it until it is convenient for him to give the same, and he shall then send it to the clerk, who shall forthwith enter the judgment and by registered post notify the parties or their agents thereof. R.S.O. 1897, c. 60, s. 150.

Judge may give judgment instant, or postpone judgment.

122.—(1) The Judge may order the times and the proportions in which any sum and costs recovered by judgment shall be paid, having regard to the provisions of section 124.

Judge may direct times and proportions in which judgment shall be paid.

(2) Unless otherwise ordered, execution shall not issue within fifteen days after the entry of judgment, but the Judge may order the amount of the judgment or any instalment thereof to be paid into court. R.S.O. 1897, c. 60, s. 151.

Execution not to issue for fifteen days after judgment.

123.—(1) Upon application made within fourteen days after the trial, or where the decision is not given at the trial after the mailing of the notice of the decision to the party applying, and upon good grounds being shown, the Judge may grant a new trial upon such terms as he thinks reasonable, and in the meantime may stay proceedings.

New trial.

(2)

Extending time
for application.

(2) If reasonable excuse for the delay is shown to the satisfaction of the Judge, the application may be made at any time within fourteen days after the expiration of the first mentioned fourteen days. (*New.*)

Judgment on
application for
new trial.

(3) Instead of granting a new trial, the Judge may pronounce the judgment which in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly. R.S.O. 1897, c. 60, s. 152.

Execution not
to be postponed
for more than
50 days.

124. Except where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from the service of the summons, without the consent of the party entitled to the same; but if it is proved to the satisfaction of the Judge that a party is unable, from sickness or other cause, to pay the debt or damages recovered against him, or any instalment thereof ordered to be paid, or that for any other reason the issue of execution should be further postponed, the Judge may stay the judgment, order or execution for such time and on such terms as he thinks fit, and so from time to time until it is proved that the cause of disability has ceased. R.S.O. 1897, c. 60, s. 153.

APPEALS.

Appeals to
Divisional
Court.

125. Subject to the provisions of section 107, an appeal shall lie to a Divisional Court of the High Court from the decision of the Judge at or after the trial, or upon an application for a new trial, except in cases where a new trial has been granted—

- (a) In an action or garnishee proceeding where the sum in dispute exceeds \$100, exclusive of costs;
- (b) In interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$100, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$60;
- (c) Where the parties consent to an appeal; or
- (d) Where the effect of the decision is to determine that any general assessment made by a mutual insurance company is invalid; but the company, unless the Divisional Court otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the County Court scale in any event. R.S.O. 1897, c. 60, ss. 154, 155. (*Amended.*)

126.—(1) Where an appeal lies, each party shall, before ^{Agents for service where right to appeal.} or at the trial, leave with the clerk a memorandum in writing of the name and place of abode of some person resident within the county town upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of abode, shall be sufficient; and, in the event of failure to leave such memorandum, all papers requiring service upon the party so failing may be served upon the clerk, or left at his office, and the clerk shall forthwith send, by registered post, all papers so served upon him, to the person entitled thereto. R.S.O. 1897, c. 60, s. 156.

(2) This section shall not apply to a Provisional Judicial District.

127. The clerk shall, at the request of the appellant, or ^{Certified proceedings, etc., to be furnished by Clerk.} his agent, certify under his hand to the Clerk of the Central office at Osgoode Hall, Toronto, the summons with all notices indorsed thereon, the claim, and any notice of defence, the evidence and all objections and exceptions thereto, and all motions or orders made, granted, or refused therein, together with such notes of the Judge's charge as may have been made, the decision when in writing, or the notes thereof, and all affidavits and other papers in the action, the whole hereinafter called the appeal case; and the clerk shall furnish to the parties, when required so to do, copies of the proceedings so certified, or such part thereof as may be required, and for every copy he shall be entitled to receive five cents for every one hundred words. R.S.O. 1897, c. 60, s. 157.

128.—(1) The appellant shall, within two weeks after the date of the decision complained of or within such other time as the Judge may order, file the appeal case with the proper officer of the High Court, and shall set down the appeal to be heard at the latest two clear days before the first sittings of a Divisional Court which commences after the expiration of thirty days from the decision complained of, and shall give notice thereof and of the appeal, stating the grounds thereof, to the respondent, his solicitor or agent, at least seven days before the commencement of such sittings; and the Divisional Court shall have power to dismiss the appeal or to give any judgment and make any order which ought to have been made, or to grant a new trial, and shall give such order or direction to the court below touching the decision or judgment to be given in the matter as the law requires, and may award costs in its discretion, which shall be certified to and form part of the judgment of the

the court below, and upon receipt of such order, direction and certificate the court below shall proceed in accordance therewith. R.S.O. 1897, c. 60, s. 158. (*Amended.*)

Powers of
Divisional
Court on
appeal.

(2) The Divisional Court shall be deemed to be seized of the appeal if and when the appeal case is filed; and, subject to Rules of Court, may extend the time for setting down the appeal and for giving notice thereof and of the appeal, and for doing any act or taking any proceeding in or in relation to the appeal; and may, if the appeal case is incomplete or inaccurate, direct the same to be amended or to be sent back to the clerk for amendment; and may also allow the notice of appeal to be amended. 4 Edw. VII. c. 12, s. 2.

Stay of
proceedings.

(3) After the appeal has been set down to be heard, the execution of the judgment appealed from shall be stayed pending the appeal, unless otherwise ordered by a Judge of the High Court. (*New.*) (*See* Con. Rules Sup. Court, 797.)

Taxable costs
on appeal.

129. The costs taxable between party and party of and incidental to an appeal shall be the actual disbursements, and no greater amount over and above actual disbursements than \$15, inclusive of counsel fee; the costs of an appeal between solicitor and client, shall be taxable on the County Court scale. R.S.O. 1897, c. 60, s. 159.

JURIES.

When a jury
may be
required.

130. Either party may require a jury in an action of tort or replevin where the sum or the value of the goods sought to be recovered exceeds \$20, and in other actions where the amount sought to be recovered exceeds \$30, and in interpleader. R.S.O. 1897, c. 60, ss. 160 and 161.

Parties to give
notice to Clerk
if they require
a jury.

131.—(1) Where the plaintiff requires a jury, he shall give notice thereof to the clerk one week before the sittings of the court at which the action is to be tried, and deposit with him the proper fees for the expenses attending the summoning of the jury; and where a claimant or a defendant requires a jury, he shall, within five days after the day of service of the summons on him, give to the clerk the like notice, and deposit with him the proper fees; and thereupon, in either case, a jury shall be summoned.

When action
has been
transferred.

(2) In an action transferred from one court to another, either party may require a jury to be summoned by giving to the clerk of the court to which the action has been transferred, three clear days before the sittings of the court at which the case is to be tried, a notice requiring a jury to be summoned

summoned, and depositing with him the proper fees for the expenses attending the summoning of the jury. R.S.O. 1897, c. 60, s. 162.

132. Unless exempted by *The Jurors' Act*, every person whose name appears on the last revised voters' list of a municipality partly or wholly within the division who resides therein, and whose name is marked "J," shall be liable to serve as a juror for the court of such division. R.S.O. 1897, c. 60, s. 163.

Who may be jurors. 9 Edw. VII., c. 34.

133.—(1) The jurors shall be residents of the division and shall be selected from the last revised voters' lists of the municipalities partly or wholly within the division.

Jurors, how selected and summoned.

(2) Where there has been no previous selection of jurors the manner of selecting them shall be as follows:—

(a) The clerk shall begin with the name of the first qualified person on the list of the municipality and proceed with the selection by taking the names in rotation until the requisite number has been selected.

(b) Where there are several municipalities the clerk shall begin with the name of the first qualified person on the list of the municipality in which the court is held, taking one name from the list, and then shall take one name from each of the lists of the other municipalities in rotation, beginning with that list which contains the greatest number of names of qualified persons, and shall repeat the same process until the requisite number has been selected.

(3) Where there has been a previous selection of jurors the clerk shall proceed as provided by the last preceding subsection, except that he shall begin where he left off at the next preceding selection, or in the case of a new list as nearly as may be at the place which corresponds with the place where he left off at the previous selection. 5 Edw. VII., c. 13, s. 6. R.S.O. 1897, c. 60, s. 165 (*part*).

Where there has been previous selection of jurors.

(4) If it appears to the Judge that the cost of summoning a jury is excessive, by reason of the residences of the persons liable to be selected being in a distant part of the division, he may direct the clerk to begin with the name of the first qualified person on the list of any municipality partly or wholly within the division, and proceed as in subsection 2. R.S.O. 1897, c. 60, s. 164.

Where cost of summoning jury is excessive.

When municipality is a party

(5) Where a municipality, partly or wholly within the division, is a party, and the jury would, if selected in ordinary course, be composed of ratepayers of such municipality, the Judge, upon the application of any party, may direct the clerk not to select any juror from the list of such municipality, or may before or at the trial direct that the issues shall be tried and damages be assessed without a jury. 5 Edw. VII., c. 13, s. 6.

Clerk of municipality to furnish Division Court Clerk with copy of voters' list.

134. The clerk of every municipality shall furnish each Division Court clerk within whose division the municipality is partly or wholly situate, with a copy of the voters' list of the municipality immediately after the revision of the same in each year. R.S.O. 1897, c. 60, s. 165.

Sections 132 to 134 not to apply to Provisional Judicial District.

135. Sections 132 to 134 shall not apply to a Provisional Judicial District.

Summoning Jurors.

136. Where a jury is required to be summoned, the clerk shall cause not less than twelve of the persons liable to serve as jurors to be summoned, and the summons shall be served at least two days before the court, either personally or by leaving the same with a grown-up person at the residence of the juror, and the summons shall be returned to the clerk, with an affidavit of service of the bailiff serving the same. R.S.O. 1897, c. 60, s. 166.

Parties entitled to challenge.

137. Each party shall be entitled to challenge two jurors peremptorily and any juror for cause. R.S.O. 1897, c. 60, s. 167.

Penalty on jurors disobeying summons.

138. A juror who, after being duly summoned, wilfully neglects or refuses to attend, shall be liable to a fine, in the discretion of the Judge, not exceeding \$4, which shall be levied and collected, with costs, by the same process as a judgment recovered in the court. R.S.O. 1897, c. 60, s. 168.

Proceedings against clerk of municipality for refusing to furnish copy of voters' list.

139.—(1) If a clerk of a municipality, for six days after demand in writing, neglects or refuses to furnish the clerk of a Division Court, within the limits of which the municipality for which he is clerk, is partly or wholly situate, with a copy of the voters' list, as provided in section 134, the clerk of the Division Court may issue a summons, to be personally served on the clerk of the municipality, three days at least before the sittings of the court, requiring him to appear at the then next sittings of the court, to shew cause why he refused or neglected to comply with the provisions of the said section. R.S.O. 1897, c. 60, s. 169.

(2) Upon proof of the service of the summons, the Judge may, in a summary manner, inquire into the neglect or refusal or may give further time, and may impose such fine upon the clerk of the municipality, not exceeding \$20, as he may deem just, and may order him to pay the costs of the proceedings; and the order of the Judge may be enforced by the same process as a judgment recovered in the court. R.S.O. 1897, c. 60, s. 170.

Judge may fine municipal clerk for breach of duty.

140.—(1) Actions to be heard by the Judge alone shall be set down in a list separate from the list of those to be tried by a jury, to be severally called “The Judge’s List” and “The Jury List,” and actions shall be set down in the order in which they were entered with the clerk.

Judge’s list and Jury list.

(2) “The Jury List” shall be first disposed of, unless the Judge otherwise directs. R.S.O. 1897, c. 60, s. 171.

Jury list to be first.

141. Five jurors shall be empanelled and sworn to do justice between the parties whose cause they are required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and the verdict of every jury shall be unanimous. R.S.O. 1897, c. 60, s. 172.

Five jurors to be empanelled, etc.
Verdict to be unanimous.

142.—(1) If the panel is exhausted, the Judge may direct the clerk to summon from the body of the court a sufficient number of disinterested persons to make up a full jury, and any person so summoned may, saving all lawful exceptions and rights of challenge, act as a juror. R.S.O. 1897, c. 60, s. 173.

Judges may call tales.

(2) Where the Judge thinks it proper to have the action or any controverted fact tried by a jury, the clerk shall instantly return a jury of five disinterested persons present, to try the same, and the Judge may give judgment on the verdict of the jury.

Judge may order jury to be empanelled to try any disputed fact.

(3) Each juror so called and sworn shall be paid the sum of ten cents, and the money so paid shall be taxed as costs in the cause. R.S.O. 1897, c. 60, s. 174.

Fee of Juror.

143. If the Judge is satisfied that a jury, after having been out a reasonable time, cannot agree upon their verdict, he may discharge them, and adjourn the trial, and order the clerk to summon a new jury for the next sittings, unless the parties consent that the Judge may give judgment on the evidence already taken, in which case he may give judgment accordingly. R.S.O. 1897, c. 60, s. 175.

Judge may discharge jury not agreeing, etc.

Power to direct
non-suit or
dismiss action.

144.—(1) In all cases of trial by jury the Judge shall have power to determine, after hearing the whole evidence or the evidence adduced on behalf of the plaintiff alone, whether there is any evidence in support of the plaintiff's case which ought to be submitted to the jury, and if in his opinion there is no such evidence, he may then, or after verdict, if he has reserved his decision, direct a non-suit or dismiss the action.

Submitting
questions to
jury.

(2) The Judge may direct the jury to answer any questions of fact stated to them by him, and the jury shall answer them, and, subject to the provisions of subsection 1, upon their answers the Judge shall enter such judgment as in his opinion may be proper.

Duty of Judge.

(3) The Judge shall determine the law and direct the jury thereon. 62 V. (2), c. 11, s. 9.

Fees for
jury fund.

145.—(1) There shall be paid to the clerk, on every action originally entered in his court, in addition to all costs or jury fees payable—

(a) Where the claim exceeds \$20, but does not exceed \$60, three cents;

(b) Where the claim exceeds \$60, but does not exceed \$100, six cents;

(c) Where the claim exceeds \$100, twenty-five cents; and the same shall be taxed and allowed as costs in the cause.

Return.

(2) On or before the 15th day of January in every year the clerk shall return to the treasurer of the county a statement, under oath, shewing the number of actions originally entered in his court during the year previous, in which the claim exceeded \$20, but did not exceed \$60, the number in which the claim exceeded \$60, but did not exceed \$100, and the number in which the claim exceeded \$100.

Fees to be paid
to County
Treasurer.

(3) He shall, with the statement, pay over to the treasurer the fees payable under this section; and the treasurer shall keep an account of all moneys so received by him under the head of "Division Court Jury Fund." R.S.O. 1897, c. 60, s. 176.

Return in cities
forming separ-
ate divisions.

(4) The clerk of every court the limits of which are wholly within a city shall make the return and payment provided for by subsections 2 and 3, to the treasurer of the city, who shall keep an account in the same manner as is provided in the case of a treasurer of a county.

(5)

(5) In the case of cities, other than those provided for Other cities and separate towns. by subsection 4, and towns separated from the county, the amounts paid in by the clerks and the amount paid by the county treasurer to the clerks for jury fees, shall be taken into account in settling the proportion of the charges to be paid by the city or town towards the cost of administration of justice. R.S.O. 1897, c. 60, s. 177.

(6) The clerk shall pay to every person who has been Fees of jurors summoned as a juror, and who attends during the sittings of the court for which he has been summoned, and who does not attend as a witness or as a litigant, the sum of \$1; and, having so paid the same, the Judge shall so certify to the treasurer, and shall deliver the certificate to the clerk, and the treasurer shall, upon the presentation of the certificate, pay to the clerk the amount which the clerk appears by the certificate to have paid the jurors. R.S.O. 1897, c. 60, ss. 177 and 178.

(7) This section shall not apply to a Provisional Judicial District.

PROCEEDINGS TO GARNISH DEBTS.

146. Subject to the provisions of section 7 of *The Wages Act*, where a debt or money demand of the proper Garnishment of debts, 10 Edw. VII., c. 72. competence of the Division Court, and not being a claim for damages, is due and owing to one party from another, or a judgment of a Division Court remains unsatisfied, in whole or in part, and a debt is owing or accruing to the debtor from any other person, the person to whom such first mentioned debt, money demand, or judgment is due and owing (hereinafter called the primary creditor), may attach and recover the debt owing or accruing to his debtor (hereinafter called the primary debtor), from any other person (hereinafter called the garnishee), or sufficient thereof to satisfy the claim of the primary creditor, subject always to the rights of other persons in respect of such debt. R.S.O. 1897, c. 60, s. 179.

As to attachment of wages, see 10 Edw. VII., c. 72.

147.—(1) In all cases under the provisions of sections 151 and 155, where the debt sought to be garnished is for wages or salary, there shall be filed with the clerk an affidavit showing the residence of the primary debtor and the nature of his occupation in the service of the garnishee at the time of the issuing of the summons (if then in such service), and stating whether the debt alleged or adjudged to be due by the primary debtor to the primary creditor was Memorandum on garnishee summons where debt attached is for wages.

or was not incurred for board or lodging, and there shall also be endorsed upon or annexed to the summons served on the garnishee a memorandum to the like effect, and in the absence of such affidavit or memorandum the debt may be deemed by the garnishee not to have been incurred for board or lodging.

Debts due by
unmarried
persons.

(2) If the primary debtor is alleged to be an unmarried person, having no family depending on him for support, a statement to that effect, verified by affidavit, shall be filed with the clerk, and the statement shall also be endorsed upon or annexed to the summons served on the garnishee; and in the absence of such affidavit or statement, such person may be deemed by the garnishee to have a family depending on him for support. 9 Edw. VII., c. 33, s. 2.

Where the Creditor's Claim is a Judgment.

Attaching
order to be
granted on
judgment.

148. After judgment has been recovered, application may be made to the Judge, on behalf of the primary creditor, on affidavit stating when the judgment was recovered, and how much thereof remains unsatisfied, and that the deponent has reason to believe, and does believe, that some one or more persons (naming them, or stating that he is unable to name them) is or are within Ontario, and is or are indebted to the primary debtor, for an order that all debts owing or accruing to the primary debtor, be attached to satisfy the judgment; and the order may be made in the prescribed form. R.S.O. 1897, c. 60, s. 183.

Service thereof
to bind all
debts, etc.

149. The service of the order on a garnishee shall have the effect (subject to the rights of other persons) of attaching and binding in his hands all debts then owing or accruing from him to the primary debtor, or sufficient thereof to satisfy the claim of the primary creditor, and payment by the garnishee into court of the debt so attached to the extent to which the judgment is unsatisfied, shall be to that extent a discharge of such debt. R.S.O. 1897, c. 60, s. 184.

Garnishee may
pay in his own
discharge.

Payment to any
but primary
creditor void.

150. Payment by the garnishee after service on him of the order, otherwise than into court, except by leave of the Judge, shall to the extent of the primary creditor's claim and costs be void; and the garnishee shall be liable to pay the same again, to the extent of the primary creditor's claim, unless the Judge otherwise orders. R.S.O. 1897, c. 60, s. 185.

151. Whether an attaching order is or is not made, the primary creditor may cause to be issued out of the court of the division in which the garnishee, or one of them, if there be joint garnishees, resides or carries on business, a summons in the prescribed form, upon or annexed to which shall be a memorandum shewing the names of the parties as designated in the judgment, the date when, and the court in which, it was recovered, and the amount unsatisfied, and the summons shall be returnable either at any ordinary sittings of the court, or at such other time and place (to be named therein) as the Judge may appoint. R.S.O. 1897, c. 60, s. 186.

152. A copy of the summons and memorandum shall be served on the garnishee, within the time and in the manner provided for the service of a summons in other actions, and also on the primary debtor, unless the Judge otherwise orders. R.S.O. 1897, c. 60, s. 188.

153. In proceedings under section 151 where the garnishee is a body corporate, not having its chief place of business within Ontario, the summons shall be issued from the court in which the judgment was recovered, or in case the judgment has been transferred, from the court to which it was transferred, and shall be served upon the agent of the body corporate whose office as such agent is nearest to the place where the court is held. R.S.O. 1897, c. 60, s. 187.

154. At the hearing of the summons, on proof of the amount owing or accruing from the garnishee to the primary debtor, and if no sufficient cause appears why it should not be paid and applied in satisfaction of the judgment, the Judge may give judgment against the garnishee in the prescribed form for the amount owing or accruing from him, or sufficient thereof to satisfy the judgment; and execution against the garnishee may issue thereon, if due, or when and as it becomes due, or at such later period as the Judge may order. R.S.O. 1897, c. 60, s. 189.

Where the Primary Creditor's Claim not a Judgment.

155.—(1) Where a judgment has not been recovered for the claim of the primary creditor he may cause to be issued out of the court of the division in which the garnishees, or one of them if they are joint garnishees, reside or carry on business, a summons, Form 6, with the particulars of the claim of the primary creditor against the primary debtor with reasonable certainty and detail attached thereto or endorsed

endorsed thereon, and the summons shall be returnable, as provided by section 151. R.S.O. 1897, c. 60, s. 190 (1). (*Amended.*)

Summons to be deemed special summons.

(2) As between the primary creditor and the primary debtor the summons shall be deemed a special summons, and all provisions of this Act applicable to a special summons and proceedings thereon shall apply. (*New.*)

Several garnishees included in summons.

(3) Where several garnishees reside or carry on business in the same division they may, by leave of the Judge, be included in the same summons. (*New.*)

Service of summons.

(4) A copy of the summons and particulars shall be served on the primary debtor and on the garnishee in the manner provided for the service of a summons in other actions. R.S.O. 1897, c. 60, s. 191.

Judgment against garnishee.

156. Where judgment is obtained against the primary debtor under the provisions of sections 98, 99, or 100, or is obtained at the trial, or where judgment is not then given, on proof of the service on the primary debtor of a copy of the summons and particulars, and of the debt due and owing by the primary debtor, the Judge, on proof of the amount owing or accruing due to the primary debtor from the garnishee, may give judgment against the garnishee in the prescribed form for the amount so owing or accruing from him or sufficient thereof to satisfy the claim of the primary creditor and costs, which sum the garnishee shall pay into court towards the satisfaction of the claim and costs; and, in default, execution may issue therefor, if due, or as it becomes due, or at such later period as the Judge may order, R.S.O. 1897, c. 60, s. 192 (1). (*Amended.*)

General Provisions.

All parties interested may show cause.

157.—(1) Whether the claim of the primary creditor is or is not a judgment the garnishee and all other persons in any way interested in or to be affected by the proceeding may show any just cause why the debt sought to be garnisheered should not be paid to or applied in or towards satisfaction of the claim of the primary creditor.

Defences in garnishee proceedings.

(2) A garnishee who desires to set up a statutory or other defence or set-off or to dispute or admit liability, in whole or in part, shall file with the clerk notice thereof, with the particulars of such defence or set-off, or an admission of the

amount

amount owing or accruing by him, within eight days after service on him of the summons, and the clerk shall forthwith send by registered post to each of the other parties a copy of such defence, set-off or admission, and the primary creditor may file with the clerk a notice that he admits or disputes the defence or set-off or accepts or disputes the admission of liability.

(3) The clerk shall forthwith send to the garnishee by registered post a copy of the notice, and in the absence of a defence or set-off the Judge may, in his discretion, give judgment against the garnishee; and unless the primary creditor files a notice disputing such defence, set-off or admission of liability, the garnishee shall not be bound to attend at the trial, and the sum admitted to be owing or accruing by him shall be taken to be the correct amount of his liability, unless the Judge shall otherwise order, in which latter case the garnishee shall be notified by the clerk by registered post, and shall have an opportunity of attending at a subsequent date and being heard before judgment is given against him.

Judgment in
default of
defence.

(4) The costs of all notices required to be given under this section shall be costs in the cause, and in no case shall be payable by the garnishee, unless so ordered by the Judge. R.S.O. 1897, c. 60, s. 193. (*Amended.*)

Costs.

158. Service of a summons on the garnishee shall have the same effect and consequences as service of an attaching order. R.S.O. 1897, c. 60, ss. 194, 195. (*Amended.*)

Effect of service
on garnishee.

159. In giving judgment for the primary creditor, the Judge may award to him the costs of the proceedings out of the amount found due from the garnishee to the primary debtor. R.S.O. 1897, c. 60, s. 197. (*Amended.*)

Costs of
garnishee
proceedings.

160.—(1) Upon the application of a person entitled to or interested in any debt attached or bound in the hands of a garnishee made at any time before actual payment out of court to the primary creditor, the Judge may order that such debt be discharged from the claim of the primary creditor.

Application to
discharge
debt from
attachment.

(2) A like order may be made, after the debt has been paid out of court to the primary creditor, in which case all parties shall be remitted to their original rights in respect thereto, except as against the garnishee, whose payment shall

Order after
money paid
out of court.

not be affected thereby, but shall be and remain an effectual discharge to him. R.S.O. 1897, c. 60, s. 200.

Security from
primary
creditor.

161.—(1) The Judge may, before giving judgment against the garnishee, or at any time before actual payment out of court to the primary creditor, order such security as may be approved by him or by the clerk, to be given by or on behalf of the primary creditor, to abide any order which may be made for repayment.

Effect of bond.

(2) The bond shall be to the clerk by his name of office, and shall enure for the benefit of all persons interested in or entitled to the debt, and by leave of the Judge, and on such terms as he may impose, may be sued on in the name of the clerk for the time being, for the benefit of such persons. R.S.O. 1897, c. 60, s. 201.

Case of adverse
claims.

162.—(1) Where a person other than the primary creditor or primary debtor claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the Judge, after notice to all persons interested, may enquire into and decide upon the claim as the justice of the case may require. R.S.O. 1897, c. 60, s. 202.

Right to jury
in certain cases.

(2) Where the amount claimed by any such person exceeds \$30 the provisions of section 130 and the following sections relating to juries shall apply so as to give any party to the proceeding a right to require a jury. 62 V. (2), c. 11, s. 10.

Judge may
postpone or
adjourn pro-
ceedings.

163. The Judge may adjourn from time to time the hearing and other proceedings in garnishee cases, to allow time for giving omitted notices, or to produce further evidence, or for any other purpose, may require service on, and notice to other or additional persons, and may prescribe a form for any proceeding. R.S.O. 1897, c. 60, s. 203.

Debt attach-
ment book.

164. The clerk shall keep in his office a debt attachment book, according to the prescribed form, in which shall be entered the names of the parties, the dates, statements, amounts and other proceedings, as indicated by the form; and copies of any entries made therein may be taken by any one free of charge. R.S.O. 1897, c. 60, s. 204.

ARBITRATION.

Reference to
arbitration by
order of Judge
or by consent

165.—(1) The Judge, with the consent of the parties, or their agents, may order the action, with or without other matters in dispute between the parties, being within the jurisdiction

jurisdiction of the court, to be referred to the arbitration of such person or persons and in such manner and on such terms as he may deem just.

(2) The parties to an action may by writing, signed by themselves or their agents, agree to refer the matters in dispute to the arbitration of a person or persons named in the agreement. Reference by agreement.

(3) The agreement shall be filed with the clerk, and entered in the Procedure Book, as notices are entered. Agreement to be filed.
R.S.O. 1897, c. 60, s. 206.

166. The reference shall not be revocable by either party except by leave of the Judge. Revocation of reference. R.S.O. 1897, c. 60, s. 207.

167. The award shall be entered by the clerk as the judgment in the action, and he shall forthwith give notice thereof to the parties. Award to be entered as the judgment. R.S.O. 1897, c. 60, s. 208.

168.—(1) The Judge, on application to him within fourteen days after the entry of the award, may set it aside and remit the matters referred to the same arbitrator or arbitrators, or may order another reference to be made in the manner aforesaid. Judge may set aside award. R.S.O. 1897, c. 60, s. 209.

(2) If reasonable excuse for the delay is shown to the satisfaction of the Judge, the application may be made at any time within fourteen days after the expiration of the first mentioned fourteen days. Application after time limited.

169. An arbitrator may administer an oath to the parties and to the witnesses examined before him. Arbitrators may administer oaths. R.S.O. 1897, c. 60, s. 210.

CONFESSIONS OF DEBT.

170.—(1) A clerk or bailiff may take a confession or acknowledgment of debt from a defendant, in the prescribed form, which shall be witnessed by the clerk or bailiff at the time of the taking thereof; and upon the production of the confession or acknowledgment to the Judge, and proof thereof by the oath of the clerk or bailiff the Judge may order that judgment be entered thereon. Clerks and bailiffs may take confessions. R.S.O. 1897, c. 60, s. 211.

(2) The oath shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant, or any other person, except his lawful fees, for taking the confession or acknowledgment, and that he has no interest in the demand sought to be recovered. R.S.O. 1897, c. 60, s. 212.

COSTS.

Judge's
authority as to
costs.

171.—(1) Unless otherwise provided, the costs of and incidental to all actions shall be in the discretion of the Judge, who shall have full power to determine by whom and to what extent costs shall be paid.

Costs to abide
event except
by order.

(2) If the Judge does not make an order as to costs they shall abide the event of the action.

Allowance to
defendant for
attendance.

(3) Where the plaintiff does not appear, or does not prove his claim, the Judge may award to the defendant a sum for his trouble and attendance not exceeding what he would be entitled to if a witness on his own behalf, to be recovered by execution.

Costs when
action fails for
want of
jurisdiction.

(4) Where the plaintiff fails to recover judgment by reason of the court not having jurisdiction, the Judge shall nevertheless have the power conferred by subsection 1, and the recovery of the costs awarded may be enforced by the same remedies by which costs of proceedings within the proper competence of the court are recoverable. R.S.O. 1897, c. 60, s. 213.

Counsel fees.

172. Where in a contested action for more than \$100, and in the cases mentioned in clauses (b) and (c) of section 125 where a counsel, solicitor or agent has been employed by the successful party in the conduct of the cause or defence, the Judge may direct a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$10, to be allowed to the successful party, and the same shall be added to the costs. R.S.O. 1897, c. 60, s. 214.

Costs of
witnesses in
certain cases.

173. Where the defendant having disputed the plaintiff's claim afterwards, and before the opening of the court, confesses judgment or pays the claim so short a time before the sittings of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff *bona fide* and reasonably incurs expenses in procuring witnesses or in attending at court, the Judge may order the defendant to pay such costs or such portion thereof as to him may seem just. R.S.O. 1897, c. 60, s. 215.

JUDGMENT AND EXECUTION.

When money
not paid, pur-
suant to order,
execution to
issue.

174.—(1) Where the Judge gives judgment or makes an order for the payment of money, and default is made in payment of the whole or of any part thereof, the party in whose favour the order has been made shall be entitled to execution against the goods and chattels of the party in default.

(2)

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution, Form 4, to a bailiff of the court, or to a bailiff of any other court within the county, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs, with interest thereon from the date of the order or of the entry of the judgment as have been ordered to be paid and remain due, and shall pay the same over to the clerk. R.S.O. 1897, c. 60, s. 218.

Form of execution.

175. If there are cross judgments between the parties the party who has obtained judgment for the larger sum shall have execution for the excess and satisfaction for the remainder, and also satisfaction on the judgment for the smaller sum shall be entered; and if both sums are equal, satisfaction shall be entered upon both judgments. R.S.O. 1897, c. 60, s. 219.

Cross judgments may be set off.

176. Except in actions brought under section 73, an execution or attachment shall not be executed out of the limits of the county over which the Judge of the court from which the same issues has jurisdiction. R.S.O. 1897, c. 60, s. 220.

Writs of execution where to be executed.

177. Where the party against whom an execution has been issued pays or tenders to the clerk or to the bailiff before an actual sale of his goods and chattels, the amount to be levied, or so much thereof as the party in whose favour the execution has issued agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the bailiff shall withdraw from possession. R.S.O. 1897, c. 60, s. 222.

Effect of payment of execution before sale.

178.—(1) The clerk immediately after a return of *nulla bona* has been made to an execution issued on a transcript of judgment shall forward by registered post to the plaintiff and to the clerk who issued the transcript a notice informing them of the date at which the execution issued, the date at which it was returned by the bailiff, and the return made.

Clerk to give notice to plaintiff of return of *nulla bona* in case of execution on a transcript of judgment.

(2) The clerk shall file among the papers in the action the post-office certificate of registration, and the absence from amongst the papers of the certificate shall be *prima facie* evidence against the clerk that the notice was not forwarded. R.S.O. 1897, c. 60, s. 225.

Registration certificate to be filed.

179. Where a memorandum of the amount of a judgment or execution or a certificate of a claim within the jurisdiction of a Division Court is filed with a sheriff under *The Creditors' Relief Act*, and the amount is not paid in full, and the sheriff is unable to make the money thereon, the

Enforcing claims under Creditors' Relief Act in Division Courts.
9 Edw. VII, c. 48

creditor may obtain from the sheriff a return according to the fact, and file the same with the clerk of the court in which the judgment was recovered, or in the case of a certificate of a claim with the clerk of the court of the division where the cause of action arose, or the debtor, or one of the debtors, if more than one, resides, and the clerk shall enter the return in his Procedure Book, and in the latter case the claim shall thereupon become a judgment of the court for the unpaid balance due thereon appearing by the return, and may be enforced in the same manner as a judgment of the Division Court. R.S.O. 1897, c. 60, s. 224.

Revivor of judgment in case of death of party.

180. In the case of the death of either or both of the parties to a judgment, the party in whose favour the judgment has been entered, or his personal representative in case of his death, may in the prescribed form revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon. R.S.O. 1897, c. 60, s. 226.

Execution when dated and returnable.

181.—(1) Every execution against goods shall bear the date of its issue, and shall be returnable immediately after the execution thereof, and, if unexecuted, shall remain in force for thirty days, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk, at the instance of the execution creditor, for six months from the date of the renewal. R.S.O. 1897, c. 60, s. 227.

Renewable.

Priority of execution.

(2) The execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof to the bailiff. (*New.*)

Judge may order an execution to issue before regular day.

182. Where the Judge is satisfied by the oath of the execution creditor or by other testimony that he will be in danger of losing the amount of the judgment if compelled to wait till the day appointed for the payment thereof before an execution can issue, the Judge may order an execution to issue at such time as he may deem just. R.S.O. 1897, c. 60, s. 229.

Executions against lands.

183.—(1) Where an execution against goods is returned *nulla bona*, and the sum remaining unsatisfied on the judgment amounts to the sum of \$40 or upwards, the judgment creditor shall be entitled to an execution, Form 5, against the lands of the judgment debtor, and the clerk, at the request of the party prosecuting the judgment, shall issue an execution against the lands of the judgment debtor directed to the sheriff of any county.

Effect of execution.

(2) The execution shall have the same force and effect as an execution issued from a County Court.

(3)

(3) The sheriff shall make a return thereof, and pay any money made thereon to the clerk of the court out of which the execution issued. Sheriff's return to be made to Clerk.

(4) Until the judgment is fully satisfied, the execution creditor may, subject to section 184, pursue the same remedy for the recovery thereof as if the judgment had been obtained in the County Court. R.S.O. 1897, c. 60, c. 230. Further proceedings by execution creditor.

(5) The writ, if unexecuted, shall remain in force for three years only from its issue unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for three years from the date of the renewal. Duration and renewal of writ.

(6) The execution may be renewed by being marked on the margin with a memorandum signed by the clerk stating the day, month and year of the renewal, and a writ so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof to the sheriff. Consolidated Rules of Supreme Court, 872. Formal effect of renewal.

(7) The production of an execution purporting to be marked with the memorandum shall be *prima facie* evidence of its having been renewed. Consolidated Rules of Supreme Court, 873. Evidence of renewal.

(8) The sheriff shall be entitled to the same fees as upon a writ of execution against lands issued from a County Court. R.S.O. 1897, c. 60, s. 232. Fees on writ against lands.

184. After an execution against lands has been issued under the next preceding section, no further proceedings shall be had in the court out of which the execution issued, without an order of the Judge, unless the judgment creditor or his agent makes and files with the clerk an affidavit stating:— Further proceedings after execution against lands issued.

(a) That the judgment remains unsatisfied in whole or in part;

(b) The amount, if any, which has been paid upon the judgment;

(c) That execution against lands has been returned unsatisfied, or that he believes the judgment debtor has not sufficient lands in the county to the sheriff of which the execution was directed to satisfy the judgment. R.S.O. 1897, c. 60, s. 231.

Bailiff after seizure of goods to indorse date of seizure and give notice of sale

185. The bailiff, after making a seizure under an execution against goods, shall endorse thereon the date of the seizure, and shall immediately, and at least eight days before the time appointed for the sale, put up at three of the most public places in the division where any property liable to be sold under the execution has been taken, public notice signed by himself, of the time and place within the division when and where it will be exposed for sale; and the notice shall describe the property taken. R.S.O. 1897, c. 60, s. 238.

Goods not to be sold until eight days after seizure.

186. The property so taken shall not be sold until the expiration of eight days at least next after the seizure thereof, unless upon the request in writing under the hand of the party whose property has been seized. R.S.O. 1897, c. 60, s. 239.

Bailiff and other officers not to purchase goods seized.

187. A clerk, bailiff or other officer of the court shall not, directly or indirectly, purchase any property at any sale made by a bailiff under legal process, and every such purchase shall be absolutely void. R.S.O. 1897, c. 60, s. 240.

Right of bailiff to fees on execution, etc., when action settled or assignment made.

188. Where a bailiff has seized property under an execution or attachment, and the action is afterwards settled between the parties, or the defendant makes an assignment for the general benefit of his creditors, the bailiff, until his fees and disbursements are fully satisfied, shall have a lien therefor upon so much of the property as will reasonably satisfy the same; but in the event of a dispute as to the proper amount of the fees and disbursements, the amount claimed therefor may be paid into court until the proper amount shall be certified by the Judge, and on such payment into court the lien shall cease. R.S.O. 1897, c. 60, s. 241.

Transcript.

Clerk of any court in which judgment entered to prepare transcript thereof, to transmit to any other Division Court.

189.—(1) The clerk, upon the application of a person having an unsatisfied judgment in his favour, shall prepare a transcript of the judgment in the prescribed form, and shall send the same to the clerk of any other Division Court, whether in the same or any other county; with a certificate at the foot thereof signed by him, sealed with the seal of the court, and addressed to the clerk of the court to whom it is to be sent, stating the amount unpaid upon the judgment, the date at which the same was recovered, and the post-office address of the person applying for the transcript; and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and certificate, enter the transcript and the amount due on the judgment according to the certificate in a book to be kept in his office for the purpose; and all proceedings may be taken for enforcing the judgment in such last-mentioned court.

(2) After a transcript has been issued under this section, no further proceedings shall be had in the court from which the transcript issued without an order from the Judge, unless the person who obtained the transcript, or his agent, shall make and file with the clerk an affidavit stating:—

- (a) That the judgment remains unsatisfied in whole or in part;
- (b) That the execution issued out of the court to which the transcript was sent has been returned *nulla bona*, or that he believes the judgment debtor has not sufficient goods in the division of that court to satisfy the judgment.

and upon the affidavit being filed, the clerk may issue such other process as the applicant may be entitled to and may direct. R.S.O. 1897, c. 60, s. 223.

DEATH, ETC., OF BAILIFF WHILE EXECUTION OR ATTACHMENT UNEXECUTED.

190.—(1) In the event of the death, resignation, suspension or removal of a bailiff, after action taken by him under an execution or attachment, the proceedings may be continued by his successor.

Continuation of proceedings after death of bailiff.

(2) The benefit of all securities given to the bailiff shall enure to his successor in office. R.S.O. 1897, c. 60, s. 242.

Securities given to the bailiff.

EXAMINATION OF JUDGMENT DEBTORS.

191.—(1) A party having an unsatisfied judgment may procure from the court out of which execution might issue, if the judgment debtor resides or carries on business within the limits of that court, a summons in the prescribed form.

Judgment debtors may be examined at the instance of their creditors.

(2) Before the summons is issued the judgment creditor, or his agent, shall make and file with the clerk an affidavit stating:—

Affidavit required before judgment summons.

- (a) That the judgment remains unsatisfied in whole or in part; and
- (b) That the deponent believes that the judgment debtor sought to be examined is able to pay the amount due in respect of the judgment or some part thereof, or that he has rendered himself liable to be committed to gaol under this Act.

(c)

Examination
of judgment
debtor.

(3) The summons shall be served personally upon the judgment debtor, and if he appears he may be examined, upon oath, as to any and what debts are owing to him and touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability which formed the subject of the action and as to the means and expectation he then had and as to the property and means he still has of discharging the judgment debt, and as to the disposal he has made of any property.

Examination
of witnesses.

(4) The party obtaining the summons and all witnesses whom the Judge thinks requisite may be examined upon oath, touching the inquiries. R.S.O. 1897, c. 60, s. 243.

The exami-
nation to be in
Judge's
chamber.

(5) The examination shall not be held in open court unless the Judge so directs. R.S.O. 1897, c. 60, s. 244.

Costs.

(6) The costs of the summons and of all proceedings thereon shall be costs in the action, unless the Judge otherwise directs. R.S.O. 1897, c. 60, s. 245.

Party exam-
ined and dis-
charged not
to be again
summoned.

(7) If after the examination the Judge makes no order against the party examined, no further summons shall issue out of the same court against him at the suit of the same or any other creditor, except upon an affidavit satisfying the Judge that since the examination the party has acquired the means of paying, or upon facts not before the court upon the examination that he did not then make a full disclosure of his estate, effects and debts. R.S.O. 1897, c. 60, s. 246.

Exception.

When judg-
ment debtor
may be com-
mitted to gaol.

192. If the party summoned—

(a) Does not attend as required by the summons, or give a sufficient reason for not attending; or R.S.O. 1897, c. 60, s. 247 (1);

(b) Attends and refuses to be sworn or to answer such questions as in the opinion of the Judge are proper. 61 V., c. 15, s. 3;

or, if it appears to the Judge, by the examination of the party, or by other evidence, that he—

(c) Obtained credit from the judgment creditor or incurred the debt or liability under false pretences, or by means of fraud or breach of trust; or

(d) Has made or caused to be made any gift, delivery or transfer of any property, or has removed or concealed the same with intent to defraud his creditors, or any of them; or R.S.O. 1897, c. 60, s. 247 (4);

(e)

- (e) Had, when or since judgment was obtained against him sufficient means and ability to pay the debt or damages or costs recovered against him, either altogether or by the instalments which the court in which the judgment was obtained ordered without depriving himself or his family of the means of living, and that he has wilfully refused or neglected to pay the same as ordered,

the Judge may order him to be committed to the common gaol of the county in which he resides or carries on business for any period not exceeding forty days. 61 V., c. 15, s. 4.

193.—(1) A party failing to attend shall not be liable to be committed for the default, unless the Judge is satisfied that his non-attendance is wilful.

In what cases only the party summoned may be committed for non-attendance :

(2) If at the hearing it appears to the Judge by the examination of the party, or otherwise, that he ought not to have been summoned, or if the judgment creditor or his agent does not appear, the Judge shall award the party summoned compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as a judgment of the court. R.S.O. 1897, c. 60, s. 248 ; 2 Edw. VII., c. 12, s. 12.

costs allowed him in certain cases.

194. Where a judgment has been recovered in an action which, but for subsection 2 of section 67, could not have been recovered in the Division Court, the judgment debtor shall not be committed where a judgment debtor could not have been committed upon or in respect of a judgment recovered in a higher court or upon or by reason of an examination upon such a judgment. 61 V., c. 15, s. 2.

Judgment summons where principal and interest sued for separately.

195.—(1) Where an order of commitment has been made, the clerk shall issue, under the seal of the court, a warrant of commitment in the prescribed form directed to the bailiff of any court within the county, upon which shall be endorsed a memorandum of the amount upon payment of which the party is entitled to be discharged from custody, and the bailiff may, by virtue of the warrant, take the party and deliver him to the keeper of the gaol in which he has been directed to be imprisoned. R.S.O. 1897, c. 60, s. 249.

Warrant of commitment.

(2) All constables and other peace officers within their respective jurisdictions shall aid in the execution of the warrant, and the keeper of the gaol shall receive and keep the party therein until discharged under the provisions of this Act, or otherwise, in due course of law. R.S.O. 1897, c. 60, s. 250.

Constables, etc., to execute warrants.

When debtor in custody shall be discharged.

196. A party may be discharged out of custody—

- (a) By order of the Judge, or
- (b) When he has paid to the keeper of the gaol the amount endorsed on the warrant, or
- (c) Upon the certificate of the clerk that such amount has been paid to him. R.S.O. 1897, c. 60, s. 251. (*Amended.*)

Judge may rescind order and may alter and modify the same.

197.—(1) The Judge may rescind or alter the order for payment, and make any further or other order for the payment of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable. R.S.O. 1897, c. 60, s. 252.

(2) The judge may rescind or alter any order of commitment made by him, whether or not the same has been acted on. (*New.*)

Debt not to be extinguished by imprisonment.

198. Imprisonment under this Act shall not extinguish the judgment, or protect the judgment debtor from being summoned anew and imprisoned for any new fraud or other default rendering him liable to be imprisoned, or deprive the judgment creditor of the right to execution on his judgment. R.S.O. 1897, c. 60, s. 254.

Annual return of commitment of judgment debtors.

199. Every clerk, on or before the 15th day of January in every year, shall make to the Inspector a return shewing the number of judgment debtors who, during the twelve months ending the 31st day of December next preceding, were ordered to be committed under each of the heads mentioned in section 192. R.S.O. 1897, c. 60, s. 256.

ABSCONDING DEBTORS.

Absconding debtors.

200. Where a person indebted in a sum not less than \$4, either for debt or damages arising upon a contract, and recoverable in or upon a judgment of a Division Court,

- (a) Absconds from Ontario, leaving personal property liable to seizure under execution for debt in any county; or
- (b) Attempts to remove such personal property out of Ontario or from one county to another therein with intent to defraud; or
- (c) Keeps concealed to avoid service of process,

the

the clerk of any Division Court, upon the application of the creditor, and upon his filing an affidavit in the prescribed form made by him, his agent, or servant, shall issue a warrant in the prescribed form, directed to the bailiff of the court from which the same issued, or to a constable of the county, commanding him to attach, seize, take and safely keep all the personal estate and effects of such person within the county, liable to seizure under execution for debt, or a sufficient part thereof to secure the sum mentioned in the warrant, with costs, and to return the warrant forthwith to the court. R.S.O. 1897, c. 60, s. 257. (*Amended.*)

Warrant for attachment.

201. The affidavit in the next preceding section mentioned may be taken before a Judge or a Justice of the Peace, and upon the same being filed with him, he may issue a warrant under his hand and seal in the form mentioned in the next preceding section, and he shall forthwith transmit the affidavit to the clerk of the court within whose division the same was taken, to be by him filed. R.S.O. 1897, c. 60, s. 258.

When County Judge or Justice of the Peace may issue attachments, etc.

202. Upon receipt of a warrant by the bailiff or constable, and upon being paid his lawful fees, including the fees for appraisement, he shall forthwith execute the warrant, and make a true inventory of all the estate and effects which he seizes and takes by virtue thereof, and shall, within twenty-four hours after seizure, call to his aid two freeholders, who being first sworn by him to appraise the estate and effects seized, shall then appraise the same, and the bailiff or constable shall forthwith return the inventory attached to the appraisement to the clerk. R.S.O. 1897, c. 60, s. 259.

Bailiff or constable to seize and make inventory.

203. In an action commenced by attachment the proceedings may be conducted to judgment and execution in the court of the division within which the warrant issued. R.S.O. 1897, c. 60, s. 260.

Proceedings may be continued in court out of which attachment issued.

204. Where proceedings have been commenced before the issue of an attachment they may be continued to judgment and execution in the court in which the proceedings were commenced. R.S.O. 1897, c. 60, s. 261.

Proceedings commenced before attachment to continue.

205. The property attached upon a warrant of attachment shall be liable to seizure and sale under the execution to be issued upon the judgment, and if the property was perishable, and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R.S.O. 1897, c. 60, s. 262.

Property attached may be sold under execution.

Plaintiff not to
divide cause
of action.

206. A plaintiff shall not divide a cause of action into two or more actions for the purpose of bringing the same within the provisions of the next six preceding sections, but a plaintiff having a cause of action for which but for the amount of the claim an attachment might be issued, may abandon the excess, and the judgment shall be a full discharge of all demands in respect of the cause of action, and the entry of judgment shall be made accordingly. R.S.O. 1897, c. 60, s. 263.

If several
attachments
issued.
9 Edw. VII.
c. 49.

207. Subject to the provisions of *The Absconding Debtors' Act*, where there are several attachments against a party, the proceeds of the property attached shall not be paid over to the attaching creditors according to priority, but shall be rateably distributed among such of them as obtain judgment against the debtor, in proportion to the amounts actually due upon their judgments; and no distribution shall take place until, in the opinion of the Judge, reasonable time has been allowed to the creditors to proceed to judgment. R.S.O. 1897, c. 60, s. 264.

If goods insuffi-
cient to satisfy
claims of all
attaching
creditors.

208. Where the proceeds of the property are insufficient to satisfy the claims of all the attaching creditors, a creditor shall not be allowed to share unless he sued out his attachment, and gave notice thereof to the clerk of the court out of which the first attachment issued or into which it was returnable, within one month next after the issue of the first attachment. R.S.O. 1897, c. 60, s. 265.

Goods seized by
constable to be
delivered to
bailiff.

209.—(1) Where property is attached under the provisions of the next nine preceding sections by a constable, it shall forthwith be handed over to the bailiff of the court out of which the warrant of attachment issued, or into which it was made returnable.

Custody of
goods seized
under attach-
ment.

(2) Property attached by a bailiff under the provisions of the next nine preceding sections, and the property delivered to him under the provisions of subsection 1, shall remain in custody of the bailiff; and he shall keep it until disposed of according to law. R.S.O. 1897, c. 60, s. 266.

On what terms
goods attached
may be restored

210.—(1) Where a person against whom an attachment has issued, or any person on his behalf, executes and files in the court to which the attachment, or first attachment, if there are more than one, has been returned, or is returnable, a bond with good and sufficient sureties, to be approved by the Judge or clerk, binding the obligors, jointly and severally, to the clerk, in double the appraised value of the property attached, with a condition that the debtor (naming him) will, wherever thereunto required by order of the Judge pay into court a sum sufficient to satisfy the claims of all
creditors

creditors who may be entitled to share in the proceeds of the property or the value of the property attached, or will produce the property, to satisfy the judgments, the clerk may supersede the attachment, and the property attached shall be restored. R.S.O. 1897, c. 60, s. 267.

(2) Subject to the provisions of section 207, if within one month after the property has been attached the person against whom the attachment has issued, or some person on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been recovered and the property attached, or so much thereof as may be necessary to satisfy the judgment and costs may be sold for the satisfaction thereof, or if the property has been previously sold as perishable so much of the proceeds thereof as may be necessary may be applied to satisfy the judgment and costs. R.S.O. 1897, c. 60, s. 268.

Sale of goods if the debtor does not appear and give security.

Perishable goods.

211.—(1) Where a summons has not been served before the issue of a warrant of attachment, it may be served personally or by leaving a copy at the last place of abode or business of the defendant, with any grown person residing there, or by leaving the copy at such place if no grown person be there found.

Proceedings against debtors where process not previously served. 27s

(2) If it appears to the Judge at the trial that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the Judge shall order that no costs be allowed to the creditor. R.S.O. 1897, c. 60, s. 270.

212. Subject to the provisions of *The Absconding Debtors' Act*, where perishable property has been attached, the bailiff who has the custody thereof (the same having been first appraised), may, at the request of the attaching creditor, expose and sell the same at public auction to the highest bidder, giving at least eight days' notice at the office of the clerk and two at two other public places within his division of the time and place of sale if the property attached will admit of being so long kept, otherwise he may sell the same at his discretion. R.S.O. 1897, c. 60, s. 271.

Perishable goods how disposed of. 9 Edw.VIII. c.49.

213.—(1) It shall not be compulsory upon the bailiff or constable to attach, or upon the bailiff to sell perishable property until the attaching creditor has given a bond to the defendant, with good and sufficient sureties to the satisfaction of the bailiff in double the amount of the appraised value of the property, conditioned that the attaching creditor will repay the value thereof, together with all costs and damages incurred in consequence of the attachment and sale in case judgment

Creditors before sale to give bond to indemnify the defendant.

judgment be not obtained by him, and the bond shall be filed with the clerk. R.S.O. 1897, c. 60, s. 272.

Application of
proceeds of sale

(2) The moneys made shall be paid over by the bailiff to the clerk, to be dealt with in the manner hereinbefore provided. R.S.O. 1897, c. 60, s. 273.

Enforcing
security given
under Act.

214.—(1) A bond given in the course of any proceeding under this Act may be sued on in any Division Court of the county wherein the same was executed, notwithstanding that the penalty in the bond may exceed the sum of \$100. R.S.O. 1897, c. 60, s. 274.

Delivery of
bond to party
entitled.

(2) The bond shall be delivered to any person entitled to it, upon the order of the Judge, to be enforced or cancelled, as the case may require. R.S.O. 1897, c. 60, s. 275.

CLAIMS OF LANDLORDS AND OTHERS IN RESPECT TO GOODS SEIZED.

Interpretation.

215. In this and the next following six sections, -

"Landlord."

(a) The word "landlord" shall include the person entitled to the immediate reversion of land, or, if it be held in joint tenancy, coparcenary or tenancy in common, any one of the persons entitled to the reversion; and

"Agent."

(b) The word "agent" shall mean any person usually employed by the landlord in the letting of land or in the collection of the rents thereof, or specially authorized by writing under the hand of the landlord to act in any particular matter. R.S.O. 1897, c. 60, s. 276.

Claims of
landlords, etc.,
to goods seized
in execution,
how to be
adjusted.

216.—(1) Where a claim is made to or in respect of property or security taken in execution or attached under the process of a Division Court, or the proceeds or value thereof, by a landlord for rent, or by a person other than the party against whom the process issued, then, subject to the provisions of *The Absconding Debtors' Act*, upon application of the bailiff or officer charged with the execution of the process, either before or after an action has been brought against him, the clerk shall issue a summons calling before the court out of which the process issued, or the court for the division in which the seizure or attachment under the process was made, the party who issued the process and the person making the claim, and thereupon any action which has been brought in the High Court or in any other court in respect of the claim, shall be stayed.

9 Edw. VII.
c. 49.

(2) The Court in which the action has been brought, or a Judge thereof, on proof of the issue of the summons and that the property or security was taken in execution or upon attachment, may order the party bringing the action to pay the costs of all proceedings had in the action after the issue of the summons out of the Division Court. Costs.

(3) The Judge shall adjudicate upon the claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to him may seem just, and shall also adjudicate between the parties, or either of them, and the bailiff or officer in respect of any claim for damages arising out of the execution of the process by the bailiff or officer, although the amount of the damages claimed or awarded is beyond the jurisdiction of a Division Court, and may make such order in respect thereof, and of the costs of any proceedings as to him may seem just; County Judge to adjudicate on claims.

(4) The order may be enforced in like manner as an order made in an action. Enforcing order.

(5) The Judge, upon the application of the execution or attaching creditor or the claimant, or the bailiff or officer, may grant a new trial, as in other cases, and may in the meantime stay proceedings. New trial.

(6) Where the bailiff or officer has executions or attachments for different persons against the same property it shall not be necessary to make a separate application on each execution or attachment; but he may use the names of the execution or attaching creditors collectively, in the application, and the summons may issue in the name of the creditors as plaintiffs. Where more than one execution or attachment has issued.

(7) The parties and the bailiff or officer shall have the same rights of defence and counterclaim, including in all cases the right and liability to costs, as would exist had an action within the jurisdiction of the court been brought to recover the damages. R.S.O. 1897, c. 60, s. 277. Rights of parties as to defence and as to costs.

217.—(1) The landlord of a tenement in or upon which property is taken under an execution, may, by notice in writing signed by himself or his agent, stating the terms of the holding and the rent payable, delivered to the bailiff or officer making the levy, claim any rent due and in arrear at the time of the taking in execution not exceeding the rent of four weeks where the tenement has been let by the week, and not exceeding the rent for two terms of payment where the tenement has been let for any other term less than a year, and not exceeding in any case the rent for one year. Provisions in relation to rents due to landlords.

Notice of claim
for rent.

(2) Notice of the claim may be given at any time before the return of the process, notwithstanding that the property may in the meantime have been removed from the premises upon which it was seized, and where the property of a tenant is sold within ten days after seizure, the money realized shall remain in court until the expiration of the ten days to answer the claim of the landlord; and where the money has been paid into court the notice may be directed to the clerk with like effect as if given to the bailiff or officer, before the sale of the property seized. R.S.O. 1897, c. 60, s. 278.

How the bailiff
is to proceed.

(3) The bailiff or officer making the levy shall also distrain for the amount of the rent claimed, and the costs of the distress, but shall not sell the property, or any part thereof, until after the expiration of eight days after the distress. R.S.O. 1897, c. 60, s. 279.

Fees of bailiff
in such cases.

9 Edw. VII.
c. 45.

(4) For every distress for rent in arrear the bailiff or officer shall be entitled to have as costs of the distress, instead of the fees allowed by this Act, the fees allowed by *The Costs of Distress Act*. R.S.O. 1897, c. 60, s. 280.

If replevin
made.

(5) If any replevin is made of the property distrained, so much of the property taken under the execution shall be sold as will satisfy the money and costs for which the execution issued and the costs of the sale, and the surplus of the sale, if any, and the property so distrained shall be returned as in other cases of distress for rent and replevin. R.S.O. 1897, c. 60, s. 281.

When land-
lord's claim to
rent is to be
first paid.

(6) An execution creditor shall not have his debt satisfied out of the proceeds of the execution and distress, or of the execution only, where the tenant replevies, until the landlord who conforms to the provisions of this Act has been paid the rent in arrear for the periods hereinbefore mentioned. R.S.O. 1897, c. 60, s. 282.

OFFENCES AND PENALTIES.

Contempt of Court.

Contempt
of Court.

218. If a person wilfully insults the Judge or any officer of a Division Court during his sitting or attendance in court, or interrupts the proceedings of the court, or creates a disturbance within the court room, or within hearing of the court, any bailiff or officer of the court may, by direction of the Judge, take the offender into custody and bring him before the Judge, and the Judge may impose upon him a fine not exceeding \$20, and in default of immediate payment may, by warrant under his hand and seal, commit the offender to the common gaol of the county for a period not exceeding

exceeding one month, unless the fine and costs, with the expense attending the commitment are sooner paid. R.S.O. 1897, c. 60, s. 283.

Resisting Officers.

219.—(1) If a person interferes with a bailiff or officer ^{Interfering with bailiff.} (or his deputy or his assistant) while in the execution of his duty, or makes or attempts to make a rescue of any property seized or attached under process of the court, he shall incur a penalty not exceeding \$20, to be recovered by order of the court, or on summary conviction before a Justice of the Peace, and shall also be liable to be imprisoned, by order of the court or Justice, for any term not exceeding three months.

(2) The bailiff or officer, or any peace officer, may take ^{Arrest of offender.} the offender into custody (with or without warrant) and bring him before the court or Justice. R.S.O. 1897, c. 60, s. 284.

Misconduct of Clerks, Bailiffs, etc.

220.—(1) Upon a complaint in writing that a bailiff or ^{Misconduct of bailiffs and officers.} officer, acting under colour or pretence of process of the court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office the Judge may, at a sittings of the court, enquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary persons, and make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied or received, and for the payment of such damages and costs to the person aggrieved, as he may think just.

(2) In default of payment of the money ordered to be ^{Enforcing order for payment by bailiff.} paid by the bailiff or officer within the time mentioned in the order for the payment thereof the Judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress or summarily in the first instance, or where payment is not made forthwith, if so ordered, may commit the offender to the common gaol of the county for a period not exceeding three months, unless the money and costs are sooner paid. R.S.O. 1897, c. 60, s. 285.

221. If a clerk, bailiff, or other officer is guilty of ex- ^{Extortion.} tortion he shall, upon proof thereof before the court, be

forever

forever disqualified to hold any office of profit or emolument in a Division Court, and shall also be liable in damages to the party aggrieved. R.S.O. 1897, c. 60, s. 286.

Negligence of Bailiffs.

Bailiff neglecting duty in relation to execution.

222. If a bailiff, by neglect, connivance or omission, loses the opportunity of levying an execution or taking property under an attachment, or unduly delays to levy or attach, the Judge, upon complaint of the party aggrieved, and upon proof of the fact alleged, may order the bailiff to pay such damages as the party aggrieved appears to have sustained, not exceeding the sum for which the execution or attachment issued; and upon demand being made therefor, and on his refusal to satisfy the same, payment may be enforced by such means as are provided for enforcing judgments. R.S.O. 1897, c. 60, s. 287.

ENFORCING PAYMENT OF FINES.

Enforcing payment of fines.

223. A fine imposed by the Judge under authority of this Act may be enforced by his order in like manner as a judgment. R.S.O. 1897, c. 60, s. 290.

GENERAL PROVISIONS WITH REGARD TO ACTIONS FOR THINGS DONE UNDER THIS ACT.

Distress not to be deemed unlawful or persons making it trespassers, by reason of defect in proceedings.

224. A levy or distress by virtue of this Act shall not be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in any proceeding relating thereto, nor shall the person levying or distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage sustained by him. R.S.O. 1897, c. 60, s. 297.

GENERAL RULES AND ORDERS.

The Lieutenant-Governor may appoint five County Judges to frame rules etc.

225.—(1) The Lieutenant-Governor in Council may appoint five of the County Court Judges, who with the Inspector shall constitute a board which shall be called "The Board of County Judges." R.S.O. 1897, c. 60, s. 306, subs. (1).

Retired Judge may be appointed.

(2) For the purposes of this section a retired County Court Judge shall be deemed a County Court Judge.

Rules to be made by board

(3) The board may make rules for regulating any matter relating to the practice and procedure of the courts or to the duties of the officers thereof, or to the costs of proceedings

ceedings therein, and every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts now or hereafter in force respecting the said courts. R.S.O. 1897, c. 60, s. 306, subs. 1. R.S.O. 1897, c. 51, s. 122, subs. 1, cl. (e).

(4) The Inspector shall not act as a member of the Board for the purpose of making rules or tariffs under any other Act.

226.—(1) The board, or four members thereof, shall certify to the President of the High Court all rules so made, and the President shall submit the same to the Judges of the High Court. R.S.O. 1897, c. 60, s. 307. Board to certify rules to the President of the High Court to be laid before the Judges.

(2) The Judges of the High Court, or a majority of them (of whom the President of one of the divisions shall be one) may approve, disallow, or amend any such rules. R.S.O. 1897, c. 60, s. 308. Such rules to be approved of by the Judges.

(3) The rules so approved shall be forwarded by the President of the High Court to the Provincial Secretary, who shall lay the same before the Legislative Assembly. R.S.O. 1897, c. 60, s. 310. Board to transmit copies to the Lieutenant-Governor, etc.

(4) Notice that the rules so approved have been received by the Provincial Secretary shall be published in the *Ontario Gazette*, and from and after the first publication of the notice the rules shall come into operation and have the same force and effect as if they had been made and included in this Act. R.S.O. 1897, c. 60, s. 309. (*Amended.*) Notice of approval to be published in Gazette.

(5) The Lieutenant-Governor may direct the Treasurer of the Province to pay out of the Consolidated Revenue Fund the expenses connected with the making, approval and printing of the rules. R.S.O. 1897, c. 60, s. 311. Expenses provided for.

227.—(1) In cases not expressly provided for by this Act or by the rules, the Judge may, in his discretion, adopt and apply the general principles of practice in the High Court to actions and proceedings in the Division Courts. Practice of the High Court may be followed in unprovided cases.

(2) Nothing herein contained shall authorize the taxation or allowance of costs to any officer of the court, other than those provided for by this Act, or in the tariff of fees authorized by the Board of County Judges. R.S.O. 1897, c. 60, s. 312. Limitation as to costs.

228. The existing rules made by the Board of County Judges, except in so far as they are inconsistent with the provisions of this Act, are hereby confirmed. Existing Rules confirmed.

PROCEEDINGS NOT TO BE SET ASIDE FOR MATTERS OF FORM.

Proceedings not
to be quashed
for want of
form.

229. No proceedings shall be quashed or vacated for any matter of form. R.S.O. 1897, c. 60, s. 217.

PART II.

APPLICABLE ONLY TO PROVISIONAL JUDICIAL DISTRICTS.

TRIAL BY JURY.

Who may be
summoned as
jurors in Divi-
sion Courts.

230. Unless exempt under *The Jurors' Act* all male persons between twenty-one and sixty years of age who reside in the division, and who are subjects of His Majesty by birth or naturalization, may be summoned to serve as jurors at any Division Court. R.S.O. 1897, c. 109, s. 60.

9 Edw. VII.
c. 34.

Who to select
jurors.

231. The clerk and a Justice of the Peace resident in the division, or in case there is no Justice of the Peace so resident, then a Justice of the Peace residing in an adjoining division, shall select the persons to serve as jurors for the trial of actions required to be tried by or before a jury. R.S.O. 1897, c. 109, s. 61.

Deposit by
person
requiring.

232. The party applying for a jury shall deposit with the clerk for the expenses of such jury the sum of six dollars, and each juror who attends shall be paid by the clerk the sum of fifty cents. R.S.O. 1897, c. 109, s. 62.

JURISDICTION.

Jurisdiction
of Courts.

233. The courts, in addition to the jurisdiction conferred by Part I., shall have jurisdiction in personal actions otherwise within the jurisdiction of a Division Court where the amount claimed does not exceed \$100. R.S.O. 1897, c. 109, s. 64. (*Amended.*)

ORDER FOR ARBITRATION ON CONSENT.

Matters in dis-
pute not over
\$800 may be
referred by
Judge with
consent to
arbitration.

234.—(1) The Judge may, with the consent in writing of the parties, order an action with or without other matters in dispute between the parties and within the jurisdiction of the court as to subject-matter irrespective of amount if not exceeding \$800, to be referred to arbitration to such persons, and in such manner and on such terms as he thinks just. R.S.O. 1897, c. 109, s. 68.

Application
of Part I.

(2) All the provisions of Part I. as to arbitration shall in other respects apply to a reference under this section. (*New.*)

TRIAL

TRIAL BY JUDGE ON CONSENT.

235.—(1) If the parties agree by writing signed by them to refer causes of action, claims and demands to a Judge and that he may try and determine the same, the Judge shall have power and jurisdiction so to do, if the subject-matter in dispute does not exceed \$800 in amount, and is otherwise within the jurisdiction of a Division Court. Parties may agree that the Judge shall try any matter not over \$800.

(2) The agreement shall be in duplicate, and one of the duplicates shall be filed with the Judge and the other with the clerk of the court in which the action is to be tried, and the court shall thereupon have jurisdiction in respect of the matter referred. Submission to be made in duplicate.

(3) Upon the agreement being filed the plaintiff may enter his claim in such division, and sue out a summons thereupon as in ordinary cases, and the proceedings in the action may be conducted to judgment and execution (irrespective of the amount recovered, if it does not exceed \$800) in the same manner as other actions in such court. R.S.O. 1897, c. 109, s. 70. May be filed and proceedings thereon had to judgment in the Division Court.

APPEAL.

236.—(1) An appeal shall lie to a Divisional Court of the High Court from a judgment under the next preceding section and from an order setting aside an award made pursuant to a reference made under the provisions of section 234. R.S.O. 1897, c. 109, s. 71. Appeal.

(2) The provisions of Part I. as to appeals shall apply to an appeal under this section. Application of Part I.

237. Upon an application for a new trial in an action wherein either party may appeal, personal service may be effected, or all papers requiring service may be delivered to the clerk of the court where the action was tried, or left at his office for the person entitled thereto, and the clerk shall forthwith send by registered post all such papers to the person entitled to the same, or his agent. R.S.O. 1897, c. 109, s. 72. Service on application for new trial.

PART III.

238. The following Acts and parts of Acts are hereby repealed: Repeal.

- (a) *The Division Courts Act* and all amendments thereto save and except sections 180, 181 and 293 to 296 of the said Act.

(b)

(b) Sections 55 to 74 of *The Unorganized Territory Act*, and all amendments thereto;

(c) So much of section 90 of the said last mentioned Act as relates to Division Courts.

Commence-
ment of Act.

239. This Act shall come into force on the first day of September next.

FORM 1.

(Section 26.)

COVENANT BY CLERK OR BAILLIFF.

Know all men by these presents, that we *J. B.*, Clerk (*or Bailiff as the case may be*) of the _____ Division Court, in the County (*or United Counties or District*) of _____ S. S. of _____, in the said County or District of (*Esquire*), and *P. M.*, of _____

in the said County or District of _____ (*Gentleman*) do hereby jointly and severally for ourselves, and for each of our heirs, executors and administrators, covenant and promise that *J. B.*, Clerk (*or Bailiff*) of the said Division Court shall duly pay over to every person entitled to the same, all such moneys as he shall receive by virtue of the said office of Clerk (*or Bailiff*) and shall and will well and faithfully do and perform the duties imposed upon him as such Clerk (*or Bailiff*) by law, and shall not misconduct himself in the said office to the damage of any person being a party in any legal proceeding; (*in the case of a Clerk's Covenant insert*: and shall pay over to any Bailiff or Bailiffs of the Division Courts the fees to which he or they may become entitled under the tariff of fees, unless where the Clerk and the Bailiff otherwise agree in writing); nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows, that is to say:

Against the said <i>J. B.</i> , in the whole,	— dollars.
Against the said <i>S. S.</i> , in the whole,	— dollars.
Against the said <i>P. M.</i> , in the whole,	— dollars.

In Witness Whereof, we have to these presents set our hands and seals, this _____ day of _____ 190 .

Signed, sealed and delivered,
in the presence of _____

R.S.O. 1897, c. 60. Sched. A.

FORM 2.

FORM 2.

(Section 36.)

PROCEDURE BOOK.

No. Division Court of the
 19
 Ensuing Sittings the day of 19
 of vs. of
 19

		No. of initial letter of item of tariff.	Bailiff	Clerk.	\$
	Received particulars of plain- tiff's claim () for \$ and \$ towards costs Issued () summons to				
	Summons ret'd. Served the day of 19 , by miles.				
	The defendant having been served with special summons and particulars of claim, and not disputing the same,				
	it is adjudged that the plain- tiff recover \$ for debt, and \$ for costs.				

Clerk.

R.S.O. 1897, c. 60. Sched. B.

FORM 3.

(Section 36.)

FOREIGN PROCEDURE BOOK.

No Division Court of the
 vs.
 19

Received summons from County of Issued summons to Bailiff Summons ret'd. Served the by	Division Court, Rec. Aff. day of Post.
Ret'd to Clerk of County of	Division Court, Bailiff's fees Miles Ser. Att.

R.S.O. 1897, c. 60. Sched. C.

FORM 4.

FORM 4.

(Section 174.)

EXECUTION AGAINST GOODS.

No.
A.D. 19 ,
In the Division Court of the Count or
District of
Between A. B., Plaintiff,
and
C. D., Defendant.
Whereas on day of A.D. 19 , the
recovered in the said court judgment against
the for dollars for debt (or damages) and
dollars for costs which remains unsatisfied (*when the judgment has been revived, add, "and on the day of*
A.D. 19 , the said judgment was duly revived.") You are
hereby required to levy of the goods and chattels of the
in the said County or District (not exempt from execution) the said moneys amounting together to the sum of
dollars and interest thereon at the rate of five per cent. per annum
from the day of A.D. 19 , and your lawful fees
so that you may have the same immediately after the execution
hereof and pay same over to the Clerk of this Court for the
Given under seal of the Court, this day of
A.D. 19

X. Y.,
Clerk.

To V. W.
Bailiff of said Court.

Judgment\$
Interest
Subsequent costs
This execution

Levy the sum of\$
and your lawful fees upon this precept.

FORM 5.

(Section 183.)

EXECUTION AGAINST LANDS.

In the Division Court of the County or
District of
Between A. B., Plaintiff,
and
C. D., Defendant.
Whereas, on the day of , A.D. 19 , the plaintiff
recovered in the said Court, judgment against the defendant for
\$ for debt, and \$ for costs of suit,
which remain unsatisfied (*when judgment has been revived, add*
"and on the day of A.D. 19 , the said
judgment was duly revived.") You are hereby required to levy of
the lands and tenements of the defendant in the said
county, the said moneys, amounting together to the sum of
\$ and interest thereon at the rate of five per cent. per annum,
from the day of A.D. 19 , together with
your own fees, poundage, and incidental expenses; so that you may
have the same immediately after the execution hereof, and pay
the same over to the Clerk of this Court for the plaintiff.

Given

Given under the seal of the Court, this day of , A.D.
19 .

Z. Y.
Clerk.

To V. W.,
Sheriff of the

County or District of
R.S.O. 1897, c. 60, Sched. D.

FORM 6.

(Section 155.)

SUMMONS IN GARNISHEE PROCEEDINGS.

No. , A.D. 19 .
In the Division Court, of the
District of

Between A. B., Primary Creditor,
and
C. D., Primary Debtor,
and
E. F., Garnishee.

To the above named Primary Debtor and Garnishee :—

Take notice that the above named Primary Creditor claims from you, the Primary Debtor, dollars, as shown by his particulars of claim herewith. If the amount of the claim with lawful costs be paid to the clerk of this court within days from the service hereof upon you, the Primary Debtor, no further proceedings shall be taken.

Unless within days after the service of this summons on you, the Primary Debtor, you enter with the clerk of this court a notice in writing that you intend to dispute the claim, the clerk may enter judgment and issue execution against you.

In case you, the Primary Debtor, give such notice disputing the claim, the action will be tried at the sittings of this court to be held at in the said County or District of next after the expiration of days from the time this summons is served on you and the sittings of the court are set forth below.

Given under the seal of the court, this day of A.D. 190 .

G. H.,
Clerk.

NOTICES AND WARNINGS TO PRIMARY DEBTOR AND GARNISHEE.

No. 1. If the primary debtor disputes the primary creditor's claim, or any part of it, he must leave with the clerk within days after the day of the service hereof a notice to the effect that he disputes the claim, or if not the whole claim, how much he disputes, in default whereof final judgment may be signed for the whole claim, or such part as is not disputed at any time within one month after the return of the summons, or afterwards by leave of the Judge, without prejudice to the primary creditor's right to recover for the remainder of the claim.

No. 2. If the primary debtor desires to set off any demand or counterclaim against the primary creditor at the trial or hearing, or to take the benefit of any statute of limitations or other statute, notice thereof in writing together with the particulars of the set-off or counterclaim must be left with the clerk of the court and served on the primary creditor, or left at his usual place of abode, if he is living within the division, not less than five days before the day on which the action will be tried, and in case the primary creditor does not reside within the division such notice and particulars must be left with the clerk for him.

CHAPTER 33.

An Act respecting Disputes concerning Boundary Lines.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Boundary Line Dis-* Short title.
putes Act."

2. This Act shall not apply to lands situated in any citv, Application
town or incorporated village. R.S.O. 1897, c. 64, s. 1. of Act.

3.—(1) Where in any action, or other proceeding, com- Questions
menced on or after the 7th day of April, 1896, it appears to arising in any
a Judge that a material question to be judicially determined action as to
between the parties is the true definition of a boundary line boundary line
between adjoining lands, such question may be referred to to be referred
trial to a special referee, who shall be an Ontario Land Sur- to surveyor.
veyor.

(2) The Surveyor shall, by a proper survey, as directed by *The Surveys Act*, and upon hearing, where he deems it necessary, the evidence under oath adduced by the parties and their counsel, if any, define upon the ground by such posts and monuments as he deems sufficient, the true boundary or division line so in dispute. Rev. Stats.
c. 181.

(3) The Surveyor shall make a report to the Court, and shall therein set forth his mode of procedure and what he has done in the premises, and also such further or other facts and circumstances as may be necessary to enable the Court to finally determine the said question and how the costs should be borne. R.S.O. 1897, c. 64, s. 2.

4. An application for a reference may be made to a Judge Application
in Chambers by any party to the litigation at any time after for reference.
the commencement of the action or other proceeding upon an affidavit

affidavit of any person familiar with the facts, and shall be subject to the rules of practice applicable to applications in Chambers. R.S.O. 1897, c. 64, s. 3.

Reference to
be under Rev.
Stat., c. 51.

5. The reference shall be regarded as a reference under section 121a of *The Judicature Act*. R.S.O. 1897, c. 64, s. 4.

Agreement as
to surveyor
to whom
reference shall
be made.

6.—(1) The parties to the litigation may agree upon the Ontario Land Surveyor to be appointed special referee.

Where parties
fail to agree.

(2) If they fail to agree he shall be named by the Judge, but the Judge shall not name a Surveyor who has theretofore been concerned in the survey of the lands in question or any part thereof, or who has been otherwise engaged in directing a survey which affects, or might affect, such lands, or which involves the determination of a like question to that in dispute, or who is or has been at any time within ten years prior thereto a resident of the county in which the lands the boundary line whereof is in question are situate. R.S.O. 1897, c. 64, ss. 5, 8.

When reference
may be
dispensed with.

7. If upon the application it shall appear that from the nature of the other issues to be determined in the litigation, or for other good cause, it would be a saving of expense, or otherwise to the advantage of both parties not to direct a reference, the reference may be dispensed with, and the question in issue shall be tried as if this Act had not been passed. R.S.O. 1897, c. 64, s. 6.

Reference of
disputed
boundary lines
by consent of
parties.

8. Where all parties to a dispute concerning a boundary line consent, a summary application may be made to the Judge of the County or District Court of the County or District in which the lands are situated to appoint a special referee under this Act without any proceedings having been commenced or being then pending, and the referee shall proceed as hereinbefore directed, and his report concerning the premises shall have the force and effect of a final award between the parties concerning the disputed boundary line, and may be registered by either party thereto in the proper registry office against the lands affected thereby. R.S.O. 1897, c. 64, s. 7.

Act to be con-
strued with
Rev. Stat. c. 51.

9. This Act shall be read and construed as *in pari materia* with *The Judicature Act*, and with the General Rules of Practice and Procedure of the Supreme Court of Judicature in force in this Province applicable to the subject matter hereof. R.S.O. 1897, c. 64, s. 9.

Repeal.

10. Chapter 64 of the Revised Statutes of Ontario, 1897, and all amendments thereto, are repealed.

CHAPTER 34.

An Act respecting the Limitation of Actions.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

PART I.—REAL PROPERTY:

Right to refuse relief on the ground of acquiescence, s. 3.

No entry by the Crown after 60 years from right accrued, s. 4.

LAND OR RENT:

No land or rent to be recovered but within ten years, s. 5.

On dispossession, s. 6 (1).

On death, s. 6 (2).

On alienation, s. 6 (3).

Wild lands, s. 6 (4).

Rent under lease, s. 6 (5).

Tenancy from year to year, s. 6 (6).

Tenancy at will, s. 6 (7, 8).

Forfeiture or breach of condition, s. 6 (9, 10).

Future estates, s. 6 (11, 12).

PERIOD OF LIMITATION AS TO CERTAIN FUTURE ESTATES, s. 7.

ADMINISTRATOR TO CLAIM FROM DEATH OF DECEASED, s. 8.

ENTRY NOT TO BE DEEMED POSSESSION, s. 9.

CONTINUAL CLAIM NOT TO PRECLUDE RIGHTS, s. 10.

DESCENT CAST, WARRANTY, ETC., NOT TO BAR RIGHT OF ENTRY OR ACTION, s. 11.

POSSESSION OF ONE JOINT TENANT, ETC., NOT TO BE DEEMED POSSESSION OF ANOTHER, s. 12.

POSSESSION OF RELATIONS NOT TO BE DEEMED POSSESSION OF THE HEIRS, s. 13.

ACKNOWLEDGMENT TO BE EQUIVALENT TO POSSESSION OR RECEIPT OF RENT, s. 14.

RECEIPT OF RENT TO BE DEEMED RECEIPT OF PROFITS, s. 15.

RIGHT OF PARTY OUT OF POSSESSION EXTINGUISHED AT THE END OF THE PERIOD LIMITED, s. 16.

WASTE LANDS OF THE CROWN, s. 17.

ACTIONS FOR RENT AND INTEREST TO BE WITHIN SIX YEARS, ss. 18, 19.

MORTGAGOR OUT OF POSSESSION BARRED AFTER TEN YEARS, s. 20.

ACKNOWLEDGMENTS, ss. 21, 22.

MORTGAGEE BARRED AFTER TEN YEARS, s. 23.

ACTIONS FOR MONEY CHARGED ON LAND AND LEGACIES, ss. 24, 25.

ACTIONS FOR DOWER, ss. 26-28.

BAR OF ESTATE TAIL, ss. 29-31.

CONCEALED FRAUD, ss. 32, 33.

EASEMENTS:

Profits *à prendre*, s. 34.

Rights of way, water and other easements, s. 35.

Interruptions, s. 36.

Light, s. 37.

Pleadings in actions claiming easements, etc., s. 38.

DISABILITIES AND EXCEPTIONS:

Telephone or telegraph wires, s. 39.

Disabilities in cases of land or rent, ss. 40-42.

Easements, ss. 43, 44.

Exception as to lands of the Crown, s. 45.

PART II.

Trusts and trustees, ss. 46-48.

PART III.

Personal actions, ss. 49-53.

Effect of acknowledgment or part payment, etc., ss. 54-59.

PART IV.

Repeal, s. 60.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Limitations Act.*" R.S.O. 1897, c. 133, s. 1.

Interpretation. 2. In this Act;

"Action." (a) "Action" shall include an information on behalf of the Crown and any civil proceeding; *New.*

"Assurance." (b) "Assurance" shall mean any deed or instrument, other than a will, by which land may be conveyed or transferred;

"Land." (c) "Land" shall include messuages and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties or any of them, any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interest or any of them, are in possession, reversion, remainder or contingency; and

"Rent." (d) "Rent" shall include all annuities and periodical sums of money charged upon or payable out of land. R.S.O. 1897, c. 133, s. 2.

PART I.

REAL PROPERTY.

3. Nothing in this Act shall interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R.S.O. 1897, c. 133, s. 33.

Right to refuse relief on the ground of acquiescence or otherwise.
Imp. Act, 3-4 W. iv. c. 27, s. 27.

No entry by Crown after 60 years from time right accrued.

4.—(1) No entry, distress, or action shall be made or brought, on behalf of His Majesty, against any person for the recovery of or respecting any land or rent, or of land, or for, or concerning, any revenues, rents, issues or profits, but within sixty years next after the right to make such entry or distress, or to bring such action shall have first

(7)

accrued to His Majesty. (*See v Geo. 3, c. 16.*) R.S.O. 1897, c. 324, s. 41.

(2) Subsections 1 to 3, 5 to 7, and 9 to 12 of section 6 and sections 7, 9 to 12 and 14 to 16 shall apply to rights of entry, distress or action asserted by or on behalf of His Majesty. *New.* (*See R.S.O. 1897, c. 324, s. 42.*)

Application of certain sections to Crown.

Land or Rent.

5. No person shall make an entry or distress, or bring an action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims, or if such right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing the same. R.S.O. 1897, c. 133, s. 4.

No land or rent to be recovered but within ten years after the right of action accrued.
Imp. Acts 3-4 Wm. iv. c. 27, s. 2; 37-38 V. c. 57, s. 1.

6.—(1) Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in receipt of the profits of such land, or in receipt of such rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were so received.

On dispossession.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(2) Where the person claiming such land or rent claims the estate or interest of a deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, such right shall be deemed to have first accrued at the time of such death.

On death.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(3) Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by an assurance, to him or some person through whom he claims, by a person being, in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such assurance has been in possession or receipt, such right shall be deemed to have first accrued at the time at which the person so claiming or the

On alienation.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

the person, through whom he claims, became entitled to such possession or receipt by virtue of such assurance.

As to lands
not cultivated
or improved.

(4) In the case of land granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some part thereof, and of which some other person not claiming to hold under such grantee has been in possession, such possession having been taken while the land was in a state of nature, then unless it is shewn that such grantee or person claiming under him while entitled to the land had knowledge of the same being in the actual possession of such other person, the lapse of ten years shall not bar the right of such grantee or any person claiming under him to bring an action for the recovery of such land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained; but no such action shall be brought or entry made after twenty years from the time such possession was taken.

Proviso.

When right
deemed to
accrue where
rent amount-
ing to \$4
reserved by
lease in writ-
ing has been
wrongfully
received.
Imp. Act, 3-4
W. iv. c. 27,
s. 9.

(5) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person so wrongfully claiming, and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

No person
after a ten-
ancy from
year to year
to have any
right but from
the end of the
first year or
last payment
of rent.
Imp. Act, 8-4
W. iv. c. 27,
s. 8.

(6) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received, whichever last happened.

(7)

(7) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined.

In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year.
Imp. Act, 3-4 W. iv. c. 27, s. 7.

(8) No mortgagor or *cestui que trust* shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of the next preceding subsection.

Case of mortgagor or *cestui que trust*.

(9) Where the person claiming such land or rent, or the person through whom he claims, has become entitled, by reason of any forfeiture or breach of condition, such right shall be deemed to have first accrued when such forfeiture was incurred or such condition broken.

In case of forfeiture or breach of condition.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(10) Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

Where advantage of forfeiture is not taken by remainderman, he shall have a new right when his estate comes into possession.
Imp. Act, 3-4 W. iv. c. 27, s. 4.

(11) Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land, or the receipt of such rent, in respect of such estate or interest, such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

In case of future estates.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(12) A right to make an entry or distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder, or other future estate or interest, at the time at which the same became an estate or interest in possession, by the determination of any estate or estates in respect of which such land has been held or the profits thereof or such rent have been received, notwithstanding that the person claiming such land or rent, or some person through whom he claims, has, at any time previously to the creation of the estate or estates which have determined, been

Further provision for case of future estates.
Imp. Act, 3-4 W. iv. c. 27, s. 5.
37-88 V. c. 57, s. 2.

in the possession or receipt of the profits of such land, or in receipt of such rent. R.S.O. 1897, c. 133, s. 5.

Time limited
as to future
estates when
person en-
titled to the
particular
estate out of
possession, etc.
Imp. Act, 37-
38 V. c. 57,
s. 2.

7.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought, by any person becoming entitled in possession to a future estate or interest, but within ten years next after the time when the right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

The case of
bar of future
estate and of
a subsequent
interest
created after
right of entry,
etc., accrued
to owner of
particular
estate.
Imp. Act,
37-38 V. c.
57, s. 2.

(2) If the right of any such person to make such entry or distress, or to bring any such action has been barred no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the owner of the particular estate whose interest has so determined, shall make any such entry or distress, or bring any such action, to recover such land or rent.

When the
right to an
estate in
possession is
barred, the
right of the
same persons
to future
estates shall
also be barred.
Imp. Act, 3-4
W. iv. c. 27,
s. 20.

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period which is applicable in such case, and such person has, at any time during such period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or by any person claiming through him, to recover such land or rent in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession. R.S.O. 1897, c. 133, s. 6.

An adminis-
trator to claim
as if he
obtained the
estate without
interval after

8. For the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed

to

to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.S.O. 1897, c. 133, s. 7.

death of
deceased.
Imp. Act, 3-4
W. iv. c. 27,
s. 6.

9. No person shall be deemed to have been in possession of any land within the meaning of this Act, merely by reason of having made an entry thereon. R.S.O. 1897, c. 133, s. 8.

A mere entry
not to be
deemed pos-
session.
Idem, s. 10.

10. No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action. R.S.O. 1897, c. 133, s. 9.

No right to be
preserved by
continual
claim.
Idem, s. 11.

11. No descent cast, discontinuance or warranty, which has happened or been made since the first day of July, 1834, or which may hereafter happen or be made, shall toll or defeat any right of entry or action for the recovery of land. R.S.O. 1897, c. 133, s. 10.

No descent,
warranty, etc.,
to bar a right
of entry or
action.
Idem, s. 39.

12. Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them. R.S.O. 1897, c. 133, s. 11.

Possession of
one coparce-
ner, etc., not
to be the pos-
session of the
others.
Idem, s. 12.

13. Where a relation of the persons entitled, as heirs, to the possession or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R.S.O. 1897, c. 133, s. 12.

Possession of
relations not
to be the pos-
session of the
heirs.
Idem, s. 13.

14. Where any acknowledgment in writing of the title of the person entitled to any land or rent has been given to him or to his agent, signed by the person in possession or in receipt of the profits of such land, or in the receipt of such rent, such possession or receipt of or by the person by whom such acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right of such last mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover such land or rent,

Acknowledg-
ment in writ-
ing given to
the person en-
titled or his
agent, to be
equivalent to
possession or
receipt of
rent.
Idem, s. 14.

shall

shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R.S.O. 1897, c. 133, s. 13.

Receipt of
rent to be
deemed re-
ceipt of pro-
fits.
Idem, s. 35.

15. The receipt of the rent payable by any lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R.S.O. 1897, c. 133, s. 14.

At the end of
the period of
limitation the
right of the
party out of
possession to
be extin-
guished.
Idem, s. 34.

16. At the determination of the period limited by this Act to any person for making an entry or distress, or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period shall be extinguished. R.S.O. 1897, c. 133, s. 15.

Waste or
vacant lands
of Crown
excepted.

17. Nothing in the foregoing sections shall apply to any waste or vacant lands of the Crown whether surveyed or not. R.S.O. 1897, c. 324, s. 43.

Arrears of Rent, and Interest.

No arrears of
rent or inter-
est to be
recovered for
more than
six years.
Idem, s. 42.

18.—(1) No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, whether it is or is not charged upon land, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, or action, but within six years next after the same respectively has become due, or next after any acknowledgment in writing of the same has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent. R.S.O. 1897, c. 133, s. 17.

(2) This section shall not apply to an action for redemption brought by a mortgagor or any person claiming under him. *New.*

Exception in
favour of
subsequent
mortgagee
when a prior
mortgagee has
been in
possession.
Idem, s. 42.

19. Where any prior mortgagee or other incumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action the arrears of interest which have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt, although such time may have exceeded such term of six years. R.S.O. 1897, c. 133, s. 18.

Mortgages and Charges on Land.

20. Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage, but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or to some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee, or the person claiming through him, and in such case no such action shall be brought, but within ten years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R.S.O. 1897, c. 133, s. 19.

Mortgagor to be barred at end of ten years from the time when the mortgagee took possession, or from the last written acknowledgment.
Imp. Acts, 3-4 W. iv. c. 27, s. 28; and 37-38 V. c. 57, s. 7.

21. Where there are more mortgagors than one, or more persons than one claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons. R.S.O. 1897, c. 133, s. 20.

Acknowledgment to one of several mortgagors.
Imp. Act, 3-4 W. iv. c. 27, s. 28.

22. Where there are more mortgagees than one, or more persons than one claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the person or persons so signing, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons as have given such acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R.S.O. 1897, c. 133, s. 21.

Acknowledgment by one of several mortgagees.
Idem, s. 28.

Mortgagee may enter or sue within ten years from last payment. Imp. Act, 7 W. iv. and 1 V. c. 28.

23. Any person entitled to or claiming under a mortgage of land, may make an entry or bring an action to recover such land, at any time within ten years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R.S.O. 1897, c. 133, s. 22.

Money charged upon land and legacies to be deemed satisfied at the end of ten years if no interest paid or acknowledgment given in writing in the meantime.

24.—(1) No action shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of such land or rent, or to recover any legacy, whether it is or is not charged upon land, but within ten years next after a present right to receive the same accrued to some person capable of giving a discharge for, or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgment in writing of the right thereto signed by the person by whom the same is payable, or his agent, has been given to the person entitled thereto or his agent; and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one was made or given. R.S.O. 1897, c. 133, s. 23; 5 Edw. VII. c. 13, s. 10.

Imp. Acts, 3-4 W. iv. c. 27, s. 40; and 37-38 V. c. 57, s. 8.

Execution against land to be a lien so long as in force.

(2) Notwithstanding the provisions of subsection 1, a lien or charge created by the placing of an execution or other process against lands in the hands of the sheriff or other officer to whom it is directed shall remain in force so long as such execution or other process remains in the hands of such sheriff or officer for execution and is kept alive by renewal or otherwise. 5 Edw. VII, c. 13, s. 10.

Time for recovering charges and arrears of interest not to be enlarged by express trusts for raising the same.

Imp. Act, 37-38 V. c. 57, s. 10.

25. No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent, and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust. R.S.O. 1897, c. 133, s. 24.

Dower.

Action of dower to be brought within ten years.

26. Subject to the provisions of section 24, no action of dower shall be brought but within ten years from the death of the husband of the dowress, notwithstanding any disability of the dowress or of any person claiming under her. R.S.O. 1897, c. 133, s. 25.

27. Where a dowress has, after the death of her husband, actual possession of the land of which she is dowable, either alone or with an heir or devisee of, or a person claiming by devolution from her husband, the period of ten years within which her action of dower is to be brought shall be computed from the time when such possession of the dowress ceased. R.S.O. 1897, c. 133, s. 26.

Time from which right to bring action of dower to be computed.

28. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R.S.O. 1897, c. 133, s. 16.

No arrears of dower to be recovered for more than six years.
Imp. Act, 3-4 W. iv. c. 27, s. 41.

Estates Tail.

29. Where the right of a tenant in tail of any land or rent to make an entry or distress or to bring an action to recover the same, has been barred by reason of the same not having been made or brought within the period limited by this Act, no such entry, distress or action shall be made or brought by any person claiming any estate, interest or right which such tenant in tail might lawfully have barred. R.S.O. 1897, c. 133, s. 27.

Where period of limitation elapsed against a tenant in tail to be deemed to have elapsed against those whose rights he could have barred.
Imp. Act, 3-4 W. iv. c. 27, s. 21.

30. Where a tenant in tail of any land or rent entitled to recover the same has died before the expiration of the period applicable in such case for making an entry or distress or bringing an action to recover such land or rent, no person claiming any estate, interest or right which such tenant in tail might lawfully have barred, shall make an entry or distress or bring an action, to recover such land or rent, but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action. R.S.O. 1897, c. 133, s. 28.

Term elapsed in such cases during the life of the tenant to be computed against those whose rights he could have barred.
Idem, s. 22.

31. Where a tenant in tail of any land or rent has made an assurance thereof, which does not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person is by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person, or any other person, other than a person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail, continues or is in such possession or receipt for the period of ten years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any

In case of possession under an assurance by a tenant in tail, which does not bar the remainders, they shall be barred at the end of ten years after the period at which the assurance, if then executed, would have barred them.
Imp. Acts, 3-4 W. iv. c. 27, s. 23; and 37-38 V. c. 57, s. 6.

other

other person, have operated to bar such estate or estates, then, at the expiration of such period of ten years, such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. R.S.O. 1897, c. 133, s. 29.

Concealed Fraud.

In cases of fraud no time shall run whilst the fraud remains concealed. Imp. Act, 3-4 W. iv. c. 27, s. 26.

32. In every case of a concealed fraud, the right of any person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered. R.S.O. 1897, c. 133, s. 31.

Unless in the case of bona fide purchaser for value without notice. Idem, s. 26.

33. Nothing in the next preceding section shall enable any owner of land or rent to bring an action for the recovery of such land or rent, or for setting aside any conveyance thereof, on account of fraud against any purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed. R.S.O. 1897, c. 133, s. 32.

Prescription in Cases of Easements.

Certain claims not to be defeated by shewing only that the same enjoyed for less than 80 years. Imp. Act, 2-3 W. iv. c. 71, s. 1.

34. No claim which may be lawfully made at the common law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or of any person, except such matters or things as are hereinafter specially provided for, and except rent and services, where such profit or benefit has been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, shall be defeated or destroyed by shewing only that such profit or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such profit or benefit has been so taken and enjoyed for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was taken and enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1897, c. 133, s. 34.

Indefeasible if enjoyed over 60 years.

Right of way, or water not to be defeated by shewing

35. No claim which may lawfully be made at the common law, by custom, prescription or grant, to any way or other

other easement, or to any water-course, or the use of any water to be enjoyed, or derived upon, over, or from any land or water of the Crown or being the property of any person, when such way or other matter as herein last before mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by shewing only that such way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless, such claim may be defeated in any other way by which the same is now liable to be defeated: and where such way or other matter as herein last before mentioned has been so enjoyed for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1897, c. 133, s. 35.

only that it began more than 20 years prior.
Idem, s. 2.

Indefeasible if enjoyed over 40 years.

36. Each of the respective periods of years in the next preceding two sections mentioned shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into question; and no act or other matter shall be deemed an interruption within the meaning of those sections, unless the same has been submitted to or acquiesced in for one year after the person interrupted has had notice thereof, and of the person making or authorizing the same to be made. R.S.O. 1897, c. 133, s. 37.

How the periods shall be calculated, and what acts only shall be an interruption to the prescription.
Idem, s. 4.

37. No person shall acquire a right by prescription to the access and use of light to or for any dwelling-house, workshop or other building. R.S.O. 1897, c. 133, s. 36.

Right to access and use of light by prescription abolished.

38. In the cases mentioned in and provided for by this Act, of claims to ways, water-courses, or other easements, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R.S.O. 1897, c. 133, s. 39.

No presumption admissible on proof of enjoyment for a less period than prescribed by this Act.
Idem, s. 6.

39. No easement in respect of wires or cables attached to property or buildings or passing through or carried over such property or buildings shall be deemed to have been acquired or shall hereafter be acquired by prescription or otherwise than by grant from the owner of such property or buildings. 4 Edw. VII. c. 10, s. 74.

Easements not acquired for telephone or telegraph wires.

DISABILITIES AND EXCEPTIONS.

1.—*In Cases of Land or Rent.*

In cases of infancy or lunacy at the time when the right of action accrues, then five years to be allowed from the termination of the disability, or previous death. Imp. Acts, 3-4 W. iv. c. 27, s. 16; 37-38 V. c. 57, s. 3.

40. If at the time at which the right of any person to make an entry or distress, or to bring an action to recover any land or rent, first accrues, as herein mentioned, such person is under any of the disabilities hereinafter mentioned (that is to say) infancy, idiocy, lunacy or unsoundness of mind, then such person, or the person claiming through him, notwithstanding that the period of ten years or five years (as the case may be) hereinbefore limited has expired, may make an entry or a distress, or bring an action, to recover such land or rent at any time within five years next after the time at which the person to whom such right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R.S.O. 1897, c. 133, s. 43.

Twenty years utmost allowance for disabilities. Imp. Acts, 3-4 W. iv. c. 27, s. 17; 37-38 V. c. 57, s. 5.

41. No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action to recover any land or rent first accrued was under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which such right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such twenty years, or although the term of five years from the time at which he ceased to be under any such disability, or died, may not have expired. R.S.O. 1897, c. 133, s. 44.

No further time to be allowed for a succession of disabilities. Imp. Act, 3-4 W. iv. c. 27, s. 18; 37-38 V. c. 57, s. 9.

42. Where any person is under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent first accrues, and departs this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, first accrued or the period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R.S.O. 1897, c. 133, s. 45.

2.—*In Cases of Easements.*

Time during which a party could not act not to be computed against him.

43. The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 34 to 39, is an infant, idiot, lunatic, of unsound mind

mind, or tenant for life, or during which any action has been pending and has been diligently prosecuted, shall be excluded in the computation of the period in such sections mentioned, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R.S.O. 1897, c. 133, s. 40.

44. Where any land or water upon, over or from which any such way or other easement, water-course or use of water has been enjoyed or derived, has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned during the continuance of such term shall be excluded in the computation of the period of forty years mentioned in section 35 if the claim is, within three years next after the end, or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R.S.O. 1897, c. 133, s. 41; 62 V. (2), c. 11, s. 16.

45. Nothing in sections 34 to 39 shall support or maintain any claim to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or to any way or other easement, or to any water-course or the use of any water to be enjoyed or derived upon, over or from any land or water of the Crown, unless such land, way, easement, water-course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by authority of the Crown. R.S.O. 1897, c. 133, s. 42.

PART II.

TRUSTS AND TRUSTEES.

46. This Part shall apply to a trust created by an instrument or an Act of the Legislature heretofore or hereafter executed or passed. R.S.O. 1897, c. 129, s. 27 (3), (4).

47.—(1) In this section "trustee" shall include an executor, an administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and shall also include a joint trustee. R.S.O. 1897, c. 129, s. 27 (1), (2).

(2) In an action against a trustee or any person claiming through him, except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property or the proceeds

Imp. Act, 2-3
W. iv. c. 71,
s. 7.

Terms of
years, etc., ex-
cluded from
computation
in certain
cases.
Imp. Act, 2-3
W. iv. c. 21,
s. 8.

Exception as
to lands of
the Crown not
duly surveyed
and laid out.

Application
of Part II.

Interpretation
"Trustee."

Application
of Statutes of
limitations
to certain
actions against
trustees.

Imp. Act, 51-
52 V. c. 59,
s. 8.

proceeds thereof, still retained by the trustee, or previously received by the trustee and converted to his use, the following provisions shall apply:—

(a) All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action if the trustee or person claiming through him had not been a trustee or person claiming through a trustee.

(b) If the action is brought to recover money or other property, and is one to which no existing statute of limitations applies, the trustee or person claiming through him shall be entitled to the benefit of, and be at liberty to plead, the lapse of time as a bar to such action in the like manner and to the like extent as if the claim had been against him in an action or debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(3) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action, and this section had been pleaded.

(4) This section shall apply only to actions commenced after the first day of January, 1892, and shall not deprive any executor or administrator of any right or defence to which he is entitled under any existing statute of limitations. R.S.O. 1897, c. 129, s. 32.

In case of
express trust,
the right shall
not be deemed
to have
accrued until
a conveyance
to a purchaser.
Imp. Act, 3-4
W. iv. c. 27,
s. 25.

48.—(1) Where any land or rent is vested in a trustee upon any express trust, the right of the *cestui que trust*, or any person claiming through him to bring an action against the trustee or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and

any person claiming through him. R.S.O. 1897, c. 133, s. 30 (1).

(2) Subject to the provisions of the next preceding section no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any statute of limitations. R.S.O. 1897, c. 133, s. 30 (2).

Claim of
cestui que
trust against
trustee.

PART III.

PERSONAL ACTIONS.

49.—(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

Limitation of
time for com-
mencing par-
ticular actions.

(a) An action for rent, upon an indenture of demise;

(b) An action upon a bond, or other specialty, except upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1894;

(c) An action upon a recognizance;

within twenty years after the cause of action arose;

(d) An action upon an award where the submission is not by specialty;

(e) An action for an escape;

(f) An action for money levied on execution;

(g) An action for trespass to goods or land, debt grounded upon any lending or contract without specialty, debt for arrears of rent, detinue, replevin, or upon the case other than for slander. On, or; R.S.O. 1897, c. 324, s. 38.

within six years after the cause of action arose; R.S.O. 1897, c. 72, s. 1 (1, a-f);

(h) An action for a penalty, damages, or a sum of money given by any statute to the Crown or the party aggrieved within two years after the cause of action arose; R.S.O. 1897, c. 72, s. 1 (1, g); 1 Edw. VII. c. 12, s. 9;

(i)

(i) An action upon the case for words, within two years after the words spoken;

(j) An action for assault, battery, wounding or imprisonment within four years after the cause of action arose. R.S.O. 1897, c. 324, s. 38.

(k) An action upon a covenant contained in an indenture of mortgage, made on or after the 1st day of July, 1894, within ten years after the cause of action arose; R.S.O. 1897, c. 72, s. 1 (1, h);

Actions for penalties.

(l) An action for a penalty imposed by any statute brought by any informer suing for himself alone, or for the Crown as well as himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose. 4 Edw. VII. c. 10, s. 20.

Where time specially limited.

(2) Nothing in this section shall extend to any action where the time for bringing the action is by any statute specially limited. R.S.O. 1897, c. 72, s. 1 (2).

Actions of account, etc., to be commenced within six years.

50. Every action of account or for not accounting, or for such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of action arose; and no claim in respect of a matter which arose more than six years before the commencement of the action, shall be enforceable by action by reason only of some other matter of claim comprised in the same account, having arisen within six years next before the commencement of the action. R.S.O. 1897, c. 72, s. 2.

In case of disability of plaintiff.

51. Where a person entitled to bring any action mentioned in either of the next two preceding sections is at the time the cause of action accrues an infant, idiot, lunatic or of unsound mind, the period within which such action should be brought shall be reckoned from the date when such person became of full age or of sound mind. R.S.O. 1897, c. 72, s. 3.

Non-resident defendants.

52. If a person against whom any cause of action mentioned in sections 49 and 50 accrues is at such time out of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R.S.O. 1897, c. 72, s. 5 and c. 324, s. 40.

53.—(1) Where a person has any such cause of action against joint debtors or joint contractors he shall not be entitled to any time within which to commence such action against any one of them who was within Ontario at the time the cause of action accrued, by reason only that some other of them was, at the time the cause of action accrued, out of Ontario. R.S.O. 1897, c. 72, s. 6.

As to cases where some joint debtors have been within and some without Ontario.

(2) The person having such cause of action shall not be barred from commencing an action against a joint debtor or joint contractor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against a joint debtor or joint contractor who was at such time within Ontario. R.S.O. 1897, c. 72, s. 7.

Recovery against one joint debtor no bar to action against another who is absent.

Acknowledgments or Promises.

54. Where an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty or recognizance, or where an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on such indenture, specialty or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or in the cases mentioned in clause (k) of subsection 1 of section 49 within ten years after such acknowledgment in writing, or part payment, or part satisfaction, or where the person entitled is at the time of the acknowledgment under disability, as aforesaid, or the person making the acknowledgment is, at the time of making the same out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, or the person has returned, as the case may be. R.S.O. 1897, c. 72, s. 8.

Effect of written acknowledgment or part payment.

55.—(1) No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of this Part, any case falling within its provisions respecting actions

Promise by words only not sufficient to take the case out of Part III.

(a) Of account and upon the case,

(b) On simple contract or of debt grounded upon any lending or contract without specialty, and

(c) Of debt for arrears of rent,

or to deprive any party of the benefit thereof, unless such acknowledgment or promise is made or contained by or in

some

some writing signed by the party chargeable thereby, or by his agent duly authorized to make such acknowledgment or promise. R.S.O. 1897, c. 146, s. 1.

Effect of
payment of
principal or
interest.

(2) Nothing in this section shall alter, take away or lessen the effect of any payment of any principal or interest by any person. 9 Geo. IV., Imp. c. 14, s. 1, *part*.

Case of two
or more joint
contractors,
obligors,
Covenantors.
or executors.

56. Where there are two or more joint debtors or joint contractors, or joint obligors or covenantors or executors or administrators of any debtor or contractor, no such joint debtor, joint contractor, joint obligor or covenantor or executor or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them. R.S.O. 1897, c. 146, s. 2.

Judgment
where plaintiff
is barred as to
one or more
defendants,
but not as to
all.

57. In actions commenced against two or more such joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such joint debtors, joint contractors, or executors or administrators is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R.S.O. 1897, c. 146, s. 3.

Endorsement,
etc., made by
the payee not
to take a
note, etc., out
of the statute.

58. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act. R.S.O. 1897, c. 146, s. 4.

Part III. to
apply to set
off.

59. This Part shall apply to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R.S.O. 1897, c. 146, s. 5.

PART IV.

REPEAL.

Repeal.

60. Chapters 133, except section 3, and sections 1 to 5 of chapter 146 and sections 38 to 44 of chapter 324 of the Revised Statutes, 1897, and all amendments thereto are repealed.

CHAPTER

CHAPTER 35.

An Act respecting Justices of the Peace.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

PART I.: QUALIFICATION AND
APPOINTMENT OF JUSTICES.JUDGES TO BE JUSTICES OF THE
PEACE, EX-OFFICIO, s. 3.

APPLICATION OF ACT, s. 4.

APPOINTMENT OF JUSTICES, ss.
5-7.

QUALIFICATION, ss. 8-11.

OATH OF QUALIFICATION AND
OFFICE, ss. 12-16.NEW OATH NOT NECESSARY ON
REAPPOINTMENT, s. 17.PENALTY FOR ACTING WITHOUT
BEING QUALIFIED OR HAVING
TAKEN OATH, s. 18.

USE OF TOWN HALL, s. 19.

PART II.:

RETURNS OF CONVICTIONS BY
JUSTICES, ss. 20-23.RETURNS OF CONVICTIONS BY
POLICE MAGISTRATES, ss. 24-
29.

GENERAL PROVISIONS, ss. 30, 31.

PART III.:

INTERPRETATION, s. 32.

FEES IN CERTAIN CASES. 33.

MILEAGE ALLOWANCE, s. 34.

PENALTY FOR CHARGING EXCES-
SIVE FEES, s. 35.

REPEAL, s. 36.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of On-
tario, enacts as follows:—

1. This Act may be cited as "*The Justices of the Peace* Short title.
Act." (*New.*)

PART I.

QUALIFICATION AND APPOINTMENT OF JUSTICES.

2. In this Part:—

"Land" shall include lands, tenements and heredita- Interpretation.
ments and any estate and interest therein. (*New.*)

3. Every Judge of the Supreme Court of Canada, of the Judges to be
Exchequer Court of Canada, and of the Supreme Court of Justices of the
Judicature for Ontario, and every Judge and Junior Judge Peace *ex*
of a County or District Court shall be, *ex officio*, a Justice of *officio*.
the Peace for every county, district and part of Ontario.
R.S.O. 1897, c. 86, s. 1; 9 Edw. VII., c. 26, s. 5.

Certain sections not to apply to *ex officio* Justices.

4. Sections 5 to 18 shall not apply to any person who is *ex officio* a Justice of the Peace. R.S.O. 1897, c. 86, s. 2.

Appointment by the Lieut.-Governor in Council.

5. The Lieutenant-Governor in Council, whenever he thinks fit, may appoint under the Great Seal, one or more Justices of the Peace in and for every county, city, and town in Ontario and in and for each provisional judicial district or provisional county, or for any part of Ontario not forming part of a county or of a provisional judicial district. R.S.O. 1897, c. 86, s. 3. [See also *Cap.* 109, *sec.* 45.]

Revocation by new commission.

6. Where a new general commission of the peace is issued, all former general commissions shall become absolutely revoked and cancelled; but nothing in this Part contained shall prevent the re-appointment of any Justice of the Peace named in any former commission, if the Lieutenant-Governor thinks fit, and the issue of a supplementary commission of the peace for any county or district shall not operate as a revocation of a general commission. R.S.O. 1897, c. 86, s. 4.

Revocation of commissions for a town when it becomes a city.

7. Where a town has been erected into a city, and the council of the city duly organized, every commission of the peace for the town shall cease. R.S.O. 1897, c. 86, s. 5.

Justices of the Peace to be of the most sufficient persons.

8. Except where otherwise specially provided, all Justices of the Peace appointed in Ontario shall be of the most sufficient persons dwelling in the counties, districts or places for which they are appointed. R.S.O. 1897, c. 86, s. 6.

Unless specially provided practising solicitor not to be Justice of the Peace.

9. Except where otherwise specially provided no solicitor shall be a Justice of the Peace during the time he continues to practise. R.S.O. 1897, c. 86, s. 7.

Sheriffs and Coroners acting as such disqualified from acting as Justices of the Peace.

10. No sheriff or coroner in and for any county, district or place shall be competent or qualified to be a Justice of the Peace or to act as such for any county, district or place wherein he is sheriff or coroner, under the penalties herein-after mentioned; and every act done by a sheriff or coroner, by the authority of any commission of the peace, shall be void. R.S.O. 1897, c. 86, s. 8.

Property qualification.

11.—(1) Except where otherwise provided by law, no person shall be or act as a Justice of the Peace who has not in his actual possession, to and for his own proper use and benefit, an estate in land in Ontario, such estate being of or above the value of \$1,200 over and above what will satisfy and discharge all incumbrances affecting the same, and all rents and charges payable out of or affecting the same.

(2) Such estate may be an estate in fee simple absolute, or for life, or for one or more lives, or a term originally of not less than twenty-one years. R.S.O. 1897, c. 86, s. 9.

12. Except in the case of Justices who are not required to possess a property qualification, every Justice of the Peace before he acts as such shall take and subscribe the oath following: Oath of Qualification.

"I, A. B., do swear, that I truly and *bona fide* have to and for my own proper use and benefit such an estate as qualifies me to act as a Justice of the Peace for the County (*or as the case may be*) of according to the true intent and meaning of *The Justices of the Peace Act, (state the nature of the estate and describe the land).*

—So help me God."

Sworn before me, etc.

A. B.

R.S.O. 1897, c. 86, s. 10.

13. A Justice of the Peace shall take and subscribe the oath following: Oath of office and allegiance.

"I, A. B., of the _____, in the County of _____ do swear that I will well and truly serve our Sovereign Lord King Edward (*or the reigning Sovereign for the time being*) in the office of Justice of the Peace, and I will do right to all manner of people, after the laws and usages of this Province, without fear or favour, affection or ill will: So help me God."

Sworn before me, etc.,

A. B.

R.S.O. 1897, c. 86, s. 11.

14. Every person appointed a Justice of the Peace shall take the oaths of qualification and of office and allegiance within three months from the date of the commission under which he is appointed, otherwise the commission shall, so far as the same relates to him, be deemed to be absolutely revoked and cancelled. R.S.O. 1897, c. 86, s. 12. Persons hereafter appointed to qualify within three months or cease to hold office.

15.—(1) Every oath of qualification and of office and allegiance taken by a Justice of the Peace, shall forthwith after the same is taken be transmitted or delivered by him to the Clerk of the Peace of the county or district within which the Justice of the Peace is to act, and shall be filed in the office of the Clerk of the Peace. R.S.O. 1897, c. 86, s. 13. Oaths to be sent to Clerk of Peace.

(2) The Clerk of the Peace shall keep posted up in his office a list of the Justices of the Peace who have taken the oath of qualification and the oath of office and allegiance, and the same shall be open to inspection without payment of any fee.

Clerks of the Peace to deliver on demand an attested copy of such oath.

16. The Clerk of the Peace shall, upon demand, forthwith deliver a true and attested copy of the oath to any person paying the sum of twenty-five cents for the same; which copy being produced as evidence on the trial of any proceeding under this Act, shall have the same force and effect as the record of the oath would have if produced. R.S.O. 1897, c. 86, s. 14.

No new oath required from persons who have before qualified.

17. It shall not be necessary for any Justice of the Peace named in any commission who, after his appointment as such Justice by a former commission took the oath of office and allegiance to again take such oath before acting under the new commission, nor shall it be necessary for any such Justice who has under any former commission qualified himself in the terms of section 12, and deposited the oath in the office of the Clerk of the Peace, to take any oath of qualification before acting under such new commission, unless the Justice, since he took the oath of qualification, has parted with the estate in right of which he qualified. R.S.O. 1897, c. 86, s. 15.

Penalty on persons acting as Justices of the Peace without having taken the oath or without being qualified.

18.—(1) When not otherwise provided, any person who acts as Justice of the Peace without having the prescribed property qualification or without having taken, subscribed and filed with the Clerk of the Peace the oaths of qualification and of office and allegiance shall incur a penalty of \$50, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 86, s. 16.

10 Edw VII., c. 37.

Defendant may rely on other lands.

(2) Such person may rely upon land not mentioned in the oath of qualification, as constituting the whole or any part of his qualification, at the time of the offence alleged against him. R.S.O. 1897, c. 86, s. 17.

Subsequent prosecution.

(3) Where proceedings have been instituted under this section and are proceeded with without fraud and with effect no subsequent prosecution shall be brought against the same person for any offence committed before such proceedings were begun. R.S.O. 1897, c. 86, s. 22.

Application of penalties.

(4) The penalties recovered under this Act shall belong to the Crown if the Crown is the prosecutor and if a private person is the prosecutor one-half shall belong to him and the other half shall belong to the Crown. See R.S.O. 1897, c. 86, s. 25.

Use of town hall.

19. A Justice of the Peace shall have the right, unless another suitable place is provided by the municipality, to use the town hall of any municipality which has no police magistrate for the hearing of cases brought before him, but not so as to interfere with its ordinary use. 7 Edw. VII., c. 23, s. 4.

[As to appointment of Justices for a limited period for the purpose of taking cognizance of offences under "The Act to preserve the Forests from destruction by Fire," see Cap. 267.]

PART II.

RETURNS OF CONVICTIONS BY JUSTICES.

20.—(1) Every Justice of the Peace who convicts and imposes any fine, forfeiture, penalty, or damages, shall make a return thereof and of the receipt and application by him of the money received from the person convicted, in writing under his hand, Form 1, to the Clerk of the Peace on or before the second Tuesday in March, June, September and December in every year for the three months ending on the last day of the next preceding month.

Return of fines and penalties imposed; when and to whom to be made.

(2) Every such return shall include all convictions and other matters mentioned in the next preceding subsection, not included in a previous return, and also all cases wherein a fine or any part thereof has been paid since the last return; and in the column for observations shall be written the words "Paid on case formerly returned." R.S.O. 1897, c. 93, s. 2.

What cases any such return shall include.

(3) In the case of a conviction before two or more Justices, present and joining therein, they shall make the return forthwith. R.S.O. 1897, c. 93, s. 1.

21.—(1) The Clerk of the Peace shall, within two weeks after the times fixed for making the returns, post up in the Court House and also in a conspicuous place in his office a schedule of the returns made, and the same shall be kept so posted up for three months, and for every schedule so made and posted up he shall be allowed a fee of \$4, which, in the case of a County, shall be paid by the Treasurer of the County, and, in the case of a district, by the Province. 4 Edw. VII., c. 10, s. 24.

Returns to be posted up in Court House and in office of Clerk of the Peace.

(2) All returns so received by the Clerk shall be filed by him and shall be entered by him quarterly in a book to be kept for that purpose. R.S.O. 1897, c. 93, s. 6.

Entry of returns by Clerks of the Peace.

22. The Clerk of the Peace, within twenty days after the end of each General Sessions of the Peace, shall transmit to the Inspector of Legal Offices, at Toronto, a true copy of all returns made to him, and also a like return of all cases brought before, or tried at, the Court of General Sessions

Copy of returns to be sent to inspector of legal offices.

Sessions of the Peace, and at the County Court Judge's Criminal Court up to the date of such return. R.S.O. 1897, c. 93, s. 7.

This Act not
to dispense
with returns
of convictions.

23. Nothing herein shall exonerate a Justice of the Peace from duly returning to the Court of General Sessions of the Peace any conviction or record of convictions which is by law required to be so returned. R.S.O. 1897, c. 93, s. 8.

RETURNS OF CONVICTIONS BY POLICE MAGISTRATES.

Record of con-
victions.

24.—(1) Every Police Magistrate, except as hereinafter mentioned, shall keep, at the place where he usually holds his Court, a book ruled in the same manner as Form I, and shall from time to time enter therein in respect of convictions had before him, whether under Dominion or Provincial authority, the information required to be given in the returns prescribed by this Act, and also a statement of the costs imposed and of the costs collected by him. R.S.O. 1897, c. 94, s. 1.

Cost of book
in which
record kept.

(2) The cost of the book shall be repaid to him by the municipality of which he is a Police Magistrate; or, if he is a Police Magistrate of territory composed of two or more municipalities, the cost shall be repaid by the county. R.S.O. 1897, c. 94, s. 2.

When entries
to be made.

25. The required entries shall be made forthwith upon the happening of the event in respect of which the information is to be given; and if the fine, forfeiture, penalty, damages or costs imposed are not collected within three months after the imposition thereof, the cause of the same not having been collected shall be written in the column for observations. R.S.O. 1897, c. 94, s. 3.

Record to be
open to in-
spection.

26. Any person may inspect such book at any reasonable time upon payment of a fee of ten cents to the clerk, or to the Police Magistrate, if there is no clerk; but any person upon whom a fine, forfeiture, penalty, damages or costs have been imposed, or any person on his behalf, may at any reasonable time without charge inspect the entry in respect to his own conviction; and the book shall at all reasonable times be open to inspection without charge by any officer of the municipality. R.S.O. 1897, c. 94, s. 4.

Sec. 20, not to
apply to a
Police
Magistrate.

27. The provisions of section 20 shall not apply to a Police Magistrate. R.S.O. 1897, c. 94, s. 6.

Return of
convictions.

28. Except as hereinafter mentioned, every Police Magistrate shall transmit to the Clerk of the Peace of the county or district for which, or within which, he is Police Magistrate

trate, and to the Inspector of Legal Offices at Toronto, on or before the second Tuesday in March, June, September and December, of every year, a copy certified by him to be a true copy of the entries in his book, with reference to convictions had before him, or fines, forfeitures, penalties, damages or costs imposed by him, during the three months ending on the last day of the next preceding month: and he shall also append to the copy a statement of any transactions which have taken place during the time covered by such period with reference to any conviction made, or fine, forfeiture, penalty, damages or costs imposed by him during any previous period. R.S.O. 1897, c. 94, s. 8.

29. Where a city or town has a salaried clerk of the Police Court other than the clerk of the council of the city or town, the duties directed by this Act to be performed by the Police Magistrate shall, under the like penalties and within the like periods, be performed by the clerk, under the supervision of the Police Magistrate. R.S.O. 1897, c. 94, s. 9.

Duties of clerk
of police court

GENERAL PROVISIONS.

30.—(1) If a Justice of the Peace or a Police Magistrate before whom a conviction takes place, or who receives any money, neglects or refuses to make the prescribed return, or wilfully makes a false, partial or incorrect return, he shall incur a penalty of \$60, together with full costs of suit. R.S.O. 1897, c. 93, s. 3, c. 94, s. 5.

Penalty on
Justice of the
Peace neglect-
ing to make
returns, etc.

(2) If a judgment passes for the defendant, or the plaintiff discontinues the action, the defendant shall recover his full costs of suit as between solicitor and client. R.S.O. 1897, c. 93, s. 4.

Limitation of
actions for
penalties.

31. This part shall not apply to the City of Toronto. R.S.O. 1897, c. 94, s. 10.

Part II. not to
apply to
Toronto.

PART III.

32. In this Part "Justice of the Peace" shall include Police Magistrate.

Interpretation
"Justice of
the Peace."

33. In cases not provided for by *The Criminal Code* and *The Ontario Summary Convictions Act* a Police Magistrate not receiving a salary and a Justice of the Peace shall be entitled to receive from the county \$2 for all services connected with the case, where the time occupied by the hearing does not exceed two hours, and 50 cents for each additional hour above two hours. 4 Edw. VII., c. 13, s. 1.

Fees in certain
cases not other-
wise provided
for.
R.S.C., c. 146.
10 Edw. VII.,
c. 37.

CHAPTER 36.

An Act respecting Police Magistrates.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

TENURE OF OFFICE, s. 2.

IN CITIES AND TOWNS, ss. 3-12.

Appointments and salaries,
s. 3.In towns of less than 5,000,
s. 4.

Reduction of salary, s. 5.

In cities of over 200,000, s. 6
(1).Appointment of third Magis-
trate, s. 6 (2).Not to act as director of a
company, s. 6 (3).Second Magistrate in a city,
s. 6 (4).Salaries to be paid quarterly,
s. 7.Appointment without salary,
s. 8.

Deputy Magistrate, ss. 9-11.

Enumeration of population, s.
12.IN COUNTIES AND DISTRICTS, ss.
13-23.When Magistrate may be
appointed with salary, s. 13.When Magistrate may be
appointed without salary,
s. 14.

Jurisdiction, s. 15.

Towns having a Magistrate
not liable for salaries of
County Magistrates, s. 16.

Reduction of salary, s. 17.

Jurisdiction of Justices where
proceedings begun before
Magistrates, s. 18.Justice may act with or at re-
quest of Magistrate, s. 19.Residence of County Magis-
trates, s. 20.

Place of holding court, s. 21.

Justice for county or district
may act for city therein,
s. 22.

Office for Magistrate, s. 23.

GENERAL PROVISIONS, ss. 24-34.

Magistrate *ex-officio* a Justice
of the Peace, s. 24.Use of court room and town
hall, s. 25.Two or more Justices may act
in case of absence of Magis-
trate, s. 26.One Justice may act for Mag-
istrate, s. 27.Magistrate to have the powers
of two Justices, s. 28.

Oath of office, s. 29.

Fees of Magistrates, s. 30.

Where Magistrate need not
act, s. 31.Magistrate not to act as coun-
sel, etc., s. 32.Magistrate need not attend on
holidays, s. 33.Provision for illness or
absence of Magistrate, s. 34.

Repeal, s. 35.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Police Magistrates' Short title, Act.*"

2. Every Police Magistrate shall be appointed by the ^{Tenure of} Lieutenant-Governor in Council, and shall hold office during ^{office.} pleasure. R.S.O. 1897, c. 87, s. 1.

IN CITIES AND TOWNS.

In what cases
Police Magis-
trate to be
appointed.

3. There shall be a Police Magistrate for every city and for every town having a population of five thousand or over, whose salary shall not be less than the following:

Salaries of
Police Magis-
trates in
cities.

(a) \$2,000 per annum in a city having a population of 18,000 or over; but in a city having a population of more than 18,000 and less than 25,000 where the Police Magistrate was appointed before the last day of January, 1903, and is permitted by this Act to practise the profession of the law or engage in any business, \$1,400 per annum. 8 Edw. VII. c. 33, s. 27; 9 Edw. VII. c. 54, s. 1.

(b) In a city having a population of less than 18,000, \$1,400 per annum, but any salary of a larger amount paid to the Police Magistrate on the 29th day of March, 1873, shall be continued while he remains in office;

In towns.

(c) In towns—where the population is not more than six thousand—\$800 per annum; where the population is over six thousand and not more than eight thousand—\$1,000 per annum, and where the population is over eight thousand—\$1,200 per annum. R.S.O. 1897, c. 87, s. 2.

Police Magis-
trates in town
having less
than 5,000
inhabitants.

4.—(1) The Lieutenant-Governor in Council may appoint a Police Magistrate for any other town.

(2) No appointment of a salaried Police Magistrate shall in the first instance be made for a town not having a population of at least five thousand, until a resolution of the council affirming the expediency thereof is passed by a vote of two-thirds of all the members; and the council may by the resolution fix the salary to be paid to him; but no Police Magistrate appointed before the 29th day of March, 1873, shall be affected by this subsection. R.S.O. 1897, c. 87, s. 3.

Reduction of
salary.

5.—(1) The council of a town having a population of less than five thousand for which a salaried Police Magistrate has been appointed may, by the vote of two-thirds of all the members, pass a by-law to reduce the salary of the Police Magistrate to a sum less than that fixed by the council in the first instance, and may name a sum in the by-law at which the council desires the salary thereafter to be fixed.

(2)

(2) Upon being furnished with a certified copy of the by-law and with satisfactory proof that the same was passed by a two-thirds vote of all the members of the council, and after notice to the Police Magistrate, the Lieutenant-Governor in Council may fix the salary to be paid after a date to be named in the Order, either at the sum named in the by-law or at such other sum, not exceeding that fixed in the first instance, as the Lieutenant-Governor in Council may deem proper.

(3) The sum fixed by the Order in Council shall thereafter be paid as the salary of the Police Magistrate in lieu of that fixed in the first instance. R.S.O. 1897, c. 87, s. 5.

6.—(1) The Lieutenant-Governor in Council may ap- Appointment and salaries of two police magistrates in cities over 200,000.
point two Police Magistrates for any city having a population of not less than 200,000, at salaries to be named in the order making the appointment or by a subsequent order, which shall not exceed \$5,000 per annum in the case of the senior Police Magistrate and \$3,000 per annum in the case of the junior Police Magistrate.

(2) The Lieutenant-Governor in Council may appoint a Appointment of third police magistrate.
third Police Magistrate for any city having a population of not less than 200,000, at a salary to be named in the order making the appointment or in a subsequent order, but which shall not exceed the salary paid to the junior Police Magistrate. 9 Edw. VII. c. 26, s. 14 (2).

(3) No Police Magistrate appointed under this section shall act as director of a company. Not to act as director of a company. 6 Edw. VII. c. 19, s. 14.

(4) The Lieutenant-Governor in Council may appoint a Second Police Magistrate in a city.
second Police Magistrate for any other city if a resolution affirming the expediency thereof is passed by a vote of two-thirds of all the members of the council, and the salary of such second Police Magistrate where the resolution provides that the appointment shall be with salary, shall be paid at the rate determined by the council and approved by the Lieutenant-Governor in Council.

(5) Where there are more Police Magistrates than one a division of their duties may be made by the Lieutenant-Governor in Council. 9 Edw. VII. c. 26, s. 14 (2).

7. The salary of the Police Magistrate shall be paid by Salaries to be paid quarterly.
the city or town at least quarterly.

Appointment
without salary.

8. The Lieutenant-Governor in Council may, notwithstanding anything in this Act, appoint a Police Magistrate without salary for any town for which there is no Police Magistrate. R.S.O. 1897, c. 87, s. 6.

Lieutenant-
Governor may
appoint De-
puty Police
Magistrate.

9.—(1) Where, in the opinion of the Lieutenant-Governor in Council, the due administration of justice requires the appointment of a Deputy Police Magistrate for a city having a population of not less than 40,000, he may appoint a Deputy Police Magistrate accordingly, who shall hold office during pleasure and without salary, unless the municipal council of the city sees fit to provide for the payment to him of a salary.

(2) The appointment may be made notwithstanding that the office of Police Magistrate is vacant. R.S.O. 1897, c. 87, s. 10.

Authority of
Deputy Police
Magistrate.

10. In case of the death, illness or absence of the Police Magistrate, or at his request, a Deputy Police Magistrate shall have authority to perform all the duties and exercise all the powers of and incident to the office of Police Magistrate. R.S.O. 1897, c. 87, s. 13.

Fees of
Deputy Police
Magistrate.

11. A Deputy Police Magistrate shall be entitled to collect the same fees and emoluments as a Justice of the Peace, and, where the Police Magistrate is paid by salary, such fees and emoluments, whether received by the Deputy Police Magistrate as such or as a Justice of the Peace, shall be paid to the municipality; and the other provisions of section 30 shall also apply to such Deputy. R.S.O. 1897, c. 87, s. 14.

Population
how deter-
mined.

12.—(1) In ascertaining the population of any city or town, the last Dominion census shall govern, unless there has been a subsequent enumeration by the assessors of the city or town, in which case such enumeration shall govern.

(2) Where the authority of the Lieutenant-Governor in Council to appoint a Police Magistrate or a Deputy Police Magistrate depends upon the population of the city, town or place for which the appointment is to be made, no appointment purporting to be made under the authority of this Act shall be open to question on the ground that the population was not in fact such as to authorize the making of the appointment. R.S.O. 1897, c. 87, s. 9.

IN COUNTIES AND DISTRICTS.

When Police
Magistrate
may be
appointed
with salary.

13.—(1) Where the County Council by resolution affirms the expediency of the appointment of salaried Police Magistrates or of a salaried Police Magistrate for the county or

part

part of the county, the Lieutenant-Governor in Council may make such an appointment, and the salary, which shall not be less than \$600 per annum, shall be fixed and paid by the county.

(2) The Police Magistrate shall also be entitled to be re- Salary.
paid by the county his reasonable and necessary travelling expenses while attending to his duties.

(3) If the Police Magistrate is appointed for part of the Commission to define jurisdiction.
county, he shall have jurisdiction only in that part.

(4) The Police Magistrate shall go from place to place within the county or within the part thereof which is designated in his commission as occasion may arise for the performance of his duty.

(5) Where the County Council, not less than twelve Discontinuance of appointments.
months after the appointment of the Police Magistrate, by resolution affirms the expediency of discontinuing the office, his commission shall terminate at the end of the next quarter but one after that in which the resolution was passed. R.S.O. 1897, c. 87, s. 16.

(6) Where a resolution is passed under subsection 5 the clerk shall forthwith transmit a certified copy thereof to the Provincial Secretary.

14. The Lieutenant-Governor in Council may appoint a Lieutenant-Governor may appoint Police Magistrates without salary.
Police Magistrate for a county or district or for any part of a county or district, who shall hold office without salary, unless the Legislature, or the County Council, or other Municipal Council, shall see fit to provide for the payment to him of a salary. R.S.O. 1897, c. 87, s. 18.

15. The jurisdiction of the Police Magistrate appointed Jurisdiction.
under sections 13 or 14 shall not extend to any city, town or village for which there is a Police Magistrate, nor to any case in which the initiatory proceedings were taken by or before such last mentioned Police Magistrate. R.S.O. 1897, c. 87, s. 15.

16. Where a town not separated from a county has a sal- Towns having Police Magistrates not liable for salaries of County Police Magistrates.
aried Police Magistrate, it shall not be chargeable with any part of the salary and expenses paid to Police Magistrates by the county. R.S.O. 1897, c. 87, s. 21.

17. A municipal council shall not reduce the salary of a Reduction of Police Magistrate's salary.
Police Magistrate without the sanction of the Lieutenant-Governor in Council. R.S.O. 1897, c. 87, s. 37.

Jurisdiction
of Justices
where proceed-
ings begun
before Police
Magistrates.

18.—(1) No Justice of the Peace shall admit to bail or discharge a prisoner or adjudicate upon or otherwise act until after judgment in a case arising in a city or town for which there is a Police Magistrate or arising in a county or part of a county for which there is a Police Magistrate appointed under sections 13 or 14, where the initiatory proceedings were taken before such last mentioned Police Magistrate, except at the Court of General Sessions of the Peace or in the case of the illness or absence or at the request of the Police Magistrate.

(2) Where the initiatory proceedings in any case are taken before a Police Magistrate no Justice of the Peace shall admit to bail or discharge the prisoner or adjudicate upon or otherwise act in such case, save as mentioned in subsection 1, until after judgment.

(3) Nothing in this section shall prevent a Justice of the Peace acting within his territorial jurisdiction from taking an information or issuing a summons or warrant returnable before the proper Police Magistrate. *See R.S.O. 1897, c. 87, ss. 7, 17 and 22.*

Justice may act
with or at re-
quest of Police
Magistrate.

19. Nothing in this Act shall prevent a Justice of the Peace from acting with a Police Magistrate, at the request of the Police Magistrate. *R.S.O. 1897, c. 87, s. 23.*

Residence of
county Police
Magistrates.

20. It shall not be necessary for a Police Magistrate for a county or district or for part thereof to be actually resident within the county or district for which, or for part of which, he is appointed. *R.S.O. 1897, c. 87, s. 24.*

Place of hold-
ing Court.

21. A Police Magistrate for a county or district, or for part of a county or district, may sit or hold his court within any town in the district or in a town separated from the county, or within a city situate within the limits of the county or district, whether such town or city has a Police Magistrate or not, and may in such town or city hear complaints, and dispose thereof as Police Magistrate in respect of all matters arising within the county or district or the part of the county or district for which he is appointed, and do therein all acts, matters and things in the discharge of the duties and powers of his office. *R.S.O. 1897, c. 87, s. 25.*

Justice for
county or dis-
trict may act in
city therein.

22. Subject to the provisions of section 18 a Justice of the Peace for a county or district may issue a summons or warrant and hold his court for the trial or investigation of any case in a city where the offence was committed within the county or district in which such city lies or which such city adjoins. *29-30 Vic. c. 51, s. 360.*

23. The County Council shall provide a proper office, together with fuel, light and furniture, for the Police Magistrate for the county or for any part thereof. R.S.O. 1897, c. 87, s. 26.

Office for
Police
Magistrate.

GENERAL PROVISIONS.

24. Every Police Magistrate shall be *ex officio* a Justice of the Peace for the whole county or district, for which or for part of which, he is appointed. R.S.O. 1897, c. 87, s. 27.

Police
Magistrate
ex-officio
a Justice of
the Peace.

25. Every Police Magistrate shall have the right to use any court room or town hall belonging to the county or to any municipality therein for which there is no Police Magistrate, for the hearing of cases brought before him; but in so using the court room or town hall he shall not interfere with the ordinary use of the court room for the other courts or with the use of the town hall for the purposes for which the same is maintained. R.S.O. 1897, c. 87, s. 28.

Use of Court
room and
town hall.

Proviso.

26. In case of the absence or illness or at the request of a Police Magistrate, any two or more Justices of the Peace of the county or district may act in his place in any matter within the jurisdiction of the Police Magistrate, and such Justices, or a majority of them, shall have all the powers of the Police Magistrate. R.S.O. 1897, c. 87, s. 29, *part*.

Two or more
Justices may
act in case of
absence of
Magistrate.

27. Nothing in this Act shall prevent one Justice of the Peace from acting for the Police Magistrate, where by law one Justice of the Peace has jurisdiction. R.S.O. 1897, c. 87, s. 29, *part*.

One Justice
may act for
Police Magis-
trate.

28. A Police Magistrate acting as such or as *ex officio* a Justice of the Peace for the county or district shall have power to do alone whatever is authorized to be done by two or more Justices of the Peace. R.S.O. 1897, c. 87, s. 30.

Police Magis-
trate to have
the powers of
two Justices.

29.—(1) The following oath of office and allegiance shall be taken and subscribed by every Police Magistrate and Deputy Police Magistrate before acting.

Oath of office.

I, A. B., of the of do swear that I will well and truly serve Our Sovereign Lord King Edward, in the office of Police Magistrate, (or Deputy Police Magistrate, as the case may be) and I will do right to all manner of people according to law, without fear or favour, affection or ill will. So help me God.
Sworn, etc.

A.B.

R.S.O. 1897, c. 87, s. 31.

(2)

Oaths to be
sent to Clerk
of the Peace.

(2) The oath of office and allegiance shall forthwith be transmitted or delivered by the Police Magistrate or Deputy Police Magistrate to the Clerk of the Peace of the county or district within which the Police Magistrate or Deputy Police Magistrate is to act, and shall be filed in the office of the Clerk of the Peace. R.S.O. 1897, c. 87, s. 32.

Fees of Police
Magistrate.

30. A Police Magistrate shall be entitled to collect the same fees and emoluments as a Justice of the Peace; and where a Police Magistrate is paid by salary, the fees and emoluments received by him as Police Magistrate, shall be paid to the municipality; but this section shall not authorize the imposition of such fees by a Police Magistrate, who is paid by salary, upon an Inspector of Licenses or upon a Provincial officer appointed under *The Liquor License Act* in respect of a case or complaint prosecuted by him under that Act. R.S.O. 1897, c. 87, s. 34.

Rev. Stat.
c. 345.

When Police
Magistrate
need not act.

31. A Police Magistrate shall not be bound to act in any case arising without the limits of the city, town or place for which he is Police Magistrate, but if he does so act he shall be entitled to collect for his own use the same fees and emoluments as a Justice of the Peace. R.S.O. 1897, c. 87, s. 35.

Police Magis-
trate not to act
in criminal
cases.

32.—(1) No Police Magistrate, and no partner or clerk of a Police Magistrate, shall act as agent, solicitor or counsel in any cause, matter, prosecution, or proceeding before any Police Magistrate or a Justice of the Peace. R.S.O. 1897, c. 87, s. 36; 3 Edw. VII. c. 7, s. 19.

Where Police
Magistrate not
to practice
law, etc.

(2) A Police Magistrate of a city having a population of more than 18,000 shall not practise the profession of the law or engage in any business while holding such office, but this shall not apply to a Deputy Police Magistrate or to a Police Magistrate appointed on or before the 5th day of May, 1894, or to the Police Magistrate of the City of Kingston now in office. 9 Edw. VII. c. 54, s. 2.

Police Magis-
trate need not
attend on
holidays.

33. Except in case of urgent necessity a Police Magistrate shall not be required to attend at the Police Office on a holiday, or on any day set apart by the Municipal Council as a civic holiday. R.S.O. 1897, c. 87, s. 38.

Provision for
illness or ab-
sence of police
magistrate.

34. In case of the illness or absence from the county or district of a Police Magistrate, any other Police Magistrate whether appointed for the county or district or for a city, town, village or other place therein, shall have all the powers and may perform all the duties of the Police Magistrate during such illness or absence, and shall also have juris-
diction

diction and power to continue and complete any proceeding begun before him, notwithstanding that the first mentioned Police Magistrate may in the meantime have recovered or returned. 7 Edw. VII., c. 23, s. 5.

35. Chapter 87 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

Rev. Stat.,
c. 87,
repealed.

CHAPTER 37.

An Act respecting Procedure before Justices of the Peace and Summary Convictions.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

APPLICATION OF ACT, s. 3.

PROCEDURE BEFORE JUSTICES.

To be according to the practice under the Criminal Code, s. 4.

PROOF OF EXCEPTIONS, ETC., s. 5.

EFFECT OF GIVING TIME, s. 6.

COSTS, s. 7.

CONVICTIONS TO BE TRANSMITTED TO CLERK OF PEACE, s. 8.

SEARCH WARRANTS, s. 9.

APPEALS FROM JUSTICES, s. 10.

APPEALS TO COURT OF APPEAL, s. 11.

IN CASE OF AMENDMENT OF ACTS OF CANADA, WHEN AMENDED ACTS TO APPLY, s. 12.

REPEAL, s. 13.

COMMENCEMENT OF ACT s. 14.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Summary Convictions Act.*" R.S.O. 1897, c. 90, s. 1.

Interpretation
"Justice."

2. In this Act "Justice" shall mean a Justice of the Peace and shall include two or more justices sitting and acting together, a Police Magistrate, and every other officer or functionary having for the purposes of any Act the authority of a Justice of the Peace or Police Magistrate.

APPLICATION OF ACT.

Application
of Act.

3. Subject to any special provision otherwise enacted with respect to such offence, act or matter, this Act shall apply to

(a) Every case in which any person commits or is suspected of having committed any offence or act over which the Legislature of Ontario has legislative authority and for which such person is liable on summary conviction to imprisonment, fine, penalty or other punishment.

(b) Every case in which a complaint is made to a Justice in relation to any matter over which the Legislature of Ontario has legislative authority and with respect to which such Justice has authority by law to make an order for the payment of money or otherwise.

POWERS AND DUTIES OF JUSTICE.

4. Except where otherwise provided Part XV and sections 1121, 1124, 1125 and 1142 of *The Criminal Code* shall apply *mutatis mutandis* to every such case as if the provisions thereof were enacted in and formed part of this Act. Application of Criminal Code. R.S. C. c. 146.

5. Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany in the same section the description of the offence in the Act, order, by-law, regulation or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. 8 Edw. VII. c. 33, s. 28. Proof of exceptions, exemptions,

6. Where a conviction or order of a Justice adjudges that a fine, penalty, or costs be paid, the conviction or order shall not be void nor shall the right to collect any fine or costs or to enforce any penalty under any such conviction or order be impaired because of time having been allowed for the payment of the sum, or any part thereof, or because of payment having been received of part of the sum adjudged to be paid, or because of the Justice having accepted security for the payment of the same, or of any part thereof. R.S.O. 1897, c. 90, s. 3 (1); 7 Edw. VII. c. 23, s. 6 (1). Effect of giving time for payment.

Subsection 2 repealed by 4 Edw. VII. c. 10, s. 22.

7.—(1) The Justice may award and order, in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant such costs as to the Justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before Justices of the Peace. Magistrate may order defendant to pay costs.

(2) Where the Justice dismisses the information or complaint, he may by the order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the Justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before Justices of the Peace. Magistrate may order prosecutor to pay costs.

(3) The sums allowed for costs shall be stated in the conviction or order, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, such costs shall extend to and include costs and charges of the distress, of the commitment, and of conveying the defendant to prison; but it shall not be necessary to include them in the amount mentioned in the conviction or order, but the amount thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the gaoler, and in the case of a distress the person Recovery of costs with penalty.

son

son by whom the same are payable shall be entitled on demand to a statement of the amount thereof. 10 Edw. VII., c. 26, s. 44.

Recovery of
costs where
no penalty.

(4) Where there is no penalty to be recovered, or where the information or complaint is dismissed the costs shall be specified in the order and shall be recoverable only by distress and sale of the goods and chattels of the party. R.S.O. 1897, c. 90, s. 4.

Return to be
made by
Justice.

8. Every Justice shall forthwith after making a conviction or order or an order of dismissal transmit to the Clerk of the Peace for the county or district the conviction or order or order of dismissal together with the information, depositions and other papers relating to the case and any recognizances in respect of which proceedings are required to be taken in the Court of General Sessions of the Peace. R.S.O. 1897, c. 90, s. 6.

Search
warrant,
when to
be issued.

9.—(1) Where a Justice of the Peace is satisfied by information upon oath, Form 1, that there is reasonable ground for believing that there is in any building, receptacle or place—

(a) anything upon or in respect of which an offence against a statute of Ontario has been or is suspected to have been committed; or,

(b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence;

he may at any time issue a warrant, Form 2, under his hand authorizing some constable or other person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the Justice issuing the warrant or some other Justice for the same territorial division to be by him dealt with according to law.

When to be
executed.

(2) Every search warrant shall be executed between sunrise and sunset, unless the Justice shall by the warrant authorize the constable or other person to execute it at night.

How things
seized to
be dealt
with.

(3) When any such thing is seized and brought before a Justice, he may detain it, taking reasonable care to preserve it until the conclusion of the investigation; and, if no one is convicted, the Justice shall direct such thing to be restored to the person from whom it was taken unless he is authorized or required by law to dispose of it otherwise.

APPEALS FROM CONVICTIONS.

10.—(1) Unless it is otherwise provided in the Act under which a conviction takes place or an order is made by a Justice for the payment of money or dismissing an information or complaint any person who thinks himself aggrieved by any such conviction or order or order of dismissal, the prosecutor or complainant as well as the defendant, may appeal where the conviction adjudges imprisonment only to the Court of General Sessions of the Peace, and in all other cases to the Division Court of the division in which the cause of the information or complaint arose. R.S.O. 1897, c. 90, s. 7; 3 Edw. VII. c. 7, s. 20; 7 Edw. VII. c. 23, s. 6 (2); See *Criminal Code*, s. 749.

Appeals from conviction or order.

(2) Where, by any statute of Ontario, an appeal is given to the Judge of the County or District Court without a jury, from a summary conviction had or made before a Justice, and no special provision is made therefor, the appeal shall be to the Division Court of the division in which the cause of the information or complaint arose. R.S.O. 1897, c. 92, s. 2.

Appeals without a jury to be to the Judge of the County wherein conviction made.

APPEALS TO COURT OF APPEAL.

11.—(1) If the Attorney-General for Canada or the Attorney-General for Ontario certifies that in his opinion a judgment or decision of the High Court or a Judge thereof upon an application to quash a conviction made under an Act of Ontario creating an offence punishable by summary conviction before a Justice or to discharge a prisoner who is held in custody under such conviction, whether the conviction has been quashed or the prisoner discharged or the application refused, involves a question on the construction of *The British North America Act*, and is of sufficient importance to justify an appeal, an appeal at the instance of either Attorney-General or of any party who thinks himself aggrieved, shall lie therefrom to the Court of Appeal without giving security for costs.

Appeal from High Court to Court of Appeal.

(2) Upon such certificate being filed with the Registrar of the High Court he shall certify under the seal of the Court the proceedings had in such Court to the Court of Appeal, and the Court of Appeal shall thereupon hear and determine the appeal without formal pleadings, and shall make such order for carrying into effect the judgment of that Court as the circumstances of the case require. R.S.O. 1897, c. 91, s. 3.

(3) If the Attorney-General for Ontario certifies that in his opinion a judgment or decision of a Court of General Sessions of the Peace allowing or dismissing an appeal under this Act, involves a question of law of sufficient importance to justify

Appeal from General Sessioins.

justify an appeal, an appeal shall lie therefrom to the Court of Appeal without giving security for costs. 1 Edw. VII. c. 12, s. 11.

Enforcing
conviction
or order.

(4) After the decision of the Court of Appeal the Justice in relation to whose determination the appeal was had or any other Justice exercising the same jurisdiction, shall have the same authority to enforce any conviction or order which has been affirmed, amended or made by the Court of Appeal, as the Justice who originally decided the case would have had to enforce his determination if the same had not been appealed against; and no action shall be brought against the Justice for enforcing the conviction or order by reason of any defect in the same. R.S.O. 1897, c. 91, s. 9.

Defendant
not to be
ordered to pay
costs in certain
cases.

(5) The defendant shall in no event be ordered to pay any costs on an appeal brought by the Attorney-General for Canada or by the Attorney-General for Ontario under this section. R.S.O. 1897, c. 91, s. 14.

Rules of Court.

(6) The Supreme Court may make rules for carrying into effect the jurisdiction by this section conferred on the Court of Appeal. R.S.O. 1897, c. 91, s. 11.

WHEN AMENDED ACTS OF CANADA TO APPLY.

When amend-
ments of Do-
minion Acts
shall take
effect under
this Act.

12. If the Parliament of Canada amends any statute, the provisions of which are by this Act declared to be applicable, the amendment shall not be applicable until after the termination of the Session of the Legislature held next after the passing of the amending statute. R.S.O. 1897, c. 90, s. 12.

Repeal.

13. Chapters 90, 91 and 92, of the Revised Statutes, 1897, and all amendments thereto are repealed.

Commence-
ment of
Act.

14. This Act shall come into force on the First day of September, 1910.

FORM 1.

INFORMATION TO OBTAIN A SEARCH WARRANT.

{ Province of Ontario, }
{ County of } }

The information of A. B., of _____ in the said County,
taken _____ day of _____ in the
year _____ before me, C. D., Esq., a Justice of the Peace
for the County (or District, etc.) of _____
who says that (*insert general description of things to be searched
for and offence in respect of which search is made*) and that he
has just and reasonable cause to suspect, and suspects, that the
said goods and chattels or some part of them are contained in the
(*dwelling-house, etc.*) of E. F., of _____ in the said County (or District,
etc.) (*here add the causes of suspicion whatever they may be*).

Wherefore

Wherefore (*he*) prays that a search warrant may be granted to him to search the (*dwelling-house, etc.*) of the said E. F. as aforesaid, for the said goods and chattels.

Sworn (*or affirmed*) before me
the day and year first mentioned,
at
in the said County of

C. D.

J.P. for (*Name of County or District*).

FORM 2.

SEARCH WARRANT.

Province of Ontario }
County of }

To all or any of the constables and other peace officers in the said County of

Whereas it appears on the oath of A. B., of , that there is reason to suspect that (*describe things to be searched for and offence in respect of which search is made*) are contained in at

This is, therefore to authorize and require you to enter between the hours of (*as the Justice shall direct*) into the said premises, and to search for the said things and to bring the same before me or some other Justice of the Peace.

Dated at in the said County of
this day of in the year

C. D.

J.P. for (*Name of County or District*).

CHAPTER 38.

An Act respecting Commissioners of Police appointed by the Government of Canada.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Dominion Commissioners of Police Act.*"

Powers of
Dominion
Commis-
sioners of
Police.
R.S.C. c. 92.

2. Every Commissioner of Police appointed under *The Dominion Police Act*, to be and act as such within Ontario, and authorized in that behalf by the Lieutenant-Governor shall have and may exercise within the territory named in his commission all the powers, authority, rights and privileges appertaining to a Police Magistrate and to Justices of the Peace generally; and in all respects, except as otherwise provided by this Act, shall be subject to the law respecting Police Magistrates and the office of Justice of the Peace. R.S.O. 1897, c. 98, s. 1, *part.*

Qualification
of Commis-
sioners.

3. It shall not be necessary for a Commissioner of Police to possess any property qualification or to be actually resident within the territorial division for which he is appointed, or to take or subscribe any oath of allegiance or of office. R.S.O. 1897, c. 98, s. 1, *part.*

Police con-
stables.

4. Every police constable appointed by a Commissioner of Police shall have all the powers, authority, rights and privileges and shall be charged with the duties and responsibilities appertaining to a constable appointed in this Province, and shall be subject to the Commissioner of Police, and liable to all the responsibilities, forfeitures and penalties provided by *The Dominion Police Act*. R.S.O. 1897, c. 98, s. 2.

R.S.C. c. 92

5. No Commissioner of Police, and no such police constable shall, as such, have power or authority in respect of any purely municipal matter or offences against municipal by-laws. R.S.O. 1897, c. 98, s. 3.

Commissioners and constables to have no authority in municipal matters.

6. Where the Lieutenant-Governor revokes a commission issued by him under this Act, the authority of the commissioner, and of any constable appointed by him, as far as the same are given by this Act, shall forthwith cease. R.S.O. 1897, c. 98, s. 4.

Revocation of commissions by Lieutenant-Governor.

7. Chapter 98 of the Revised Statutes, 1897, is repealed.

Repeal.

CHAPTER 39.

An Act respecting Constables.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 APPOINTMENT BY GENERAL SESSIONS OF THE PEACE, s. 3.
 Duration of appointment, s. 4.
 APPOINTMENT OF CONSTABLES BY COUNTY JUDGE, s. 5.
 APPOINTMENT BY CERTAIN POLICE MAGISTRATES, s. 6.
 Oath, s. 7.
 HIGH CONSTABLE, ss. 8-12.
 CONSTABLE TO BE A COUNTY CONSTABLE, s. 13.

RETURNS BY CONSTABLES, s. 14.
 INQUIRIES BY INSPECTOR, s. 15.
 SUSPENSION FROM OFFICE, s. 16.
 ONTARIO POLICE FORCE, s. 17.
 PERSONS EXEMPT, s. 18.
 SPECIAL CONSTABLES:
 Appointment, ss. 19-22.
 Powers, ss. 23-25.
 Remuneration, s. 26.
 Suspension and determination of services, s. 27.
 Offences and penalties, ss. 28-30.
 REPEAL, s. 31.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The Constables Act.*"

Interpretation. **2.** In this Act
 (a) "County" shall include District;
 (b) "County Court" shall include District Court.

APPOINTMENT BY GENERAL SESSIONS.

Appointment of Constables. **3.** The Court of General Sessions of the Peace, at any sittings or adjourned sittings, but not at a special sittings, may appoint a sufficient number of fit and proper persons to be constables for the county, and may, in like manner, dismiss any constable so appointed. R.S.O. 1897, c. 99, s. 1.

Dismissal.

Continuance in office.

4. Every Constable so appointed, and having taken the oath, shall continue in office at least one year, and thereafter from year to year without re-appointment, unless he claims exemption from serving, in which case he shall be released at any time after the end of the first year. R.S.O. 1897, c. 99, s. 3.

APPOINTMENT

APPOINTMENT BY COUNTY JUDGE.

5.—(1) To prevent injurious delay in appointing County Constables, arising from the long intervals between the sittings of the Courts of General Sessions of the Peace, the Judge of the County Court may appoint one or more Constables for the County. R.S.O. 1897, c. 99, s. 12.

Appointment
of Constables
by County
Court Judges.

(2) The Judge shall forthwith notify the Clerk of the Peace of the appointment. R.S.O. 1897, c. 99, s. 13.

Clerk of the
Peace to be
notified.

(3) The Clerk of the Peace shall report every such appointment to the Court of General Sessions of the Peace at the sittings holden next after he receives such notice, and, unless at such sittings the appointment is revoked, the same shall continue as if it had been made by such Court. R.S.O. 1897, c. 99, s. 14.

Clerk to report
to the General
Sessions.

(4) A Constable so appointed shall have the same authority and privileges and be subject to the same liability and shall perform the same duties as if appointed by a Court of General Sessions of the Peace. R.S.O. 1897, c. 99, s. 15, *part.*

Authority of
Constables
appointed
by Judge.

APPOINTMENT BY POLICE MAGISTRATES.

6.—(1) A salaried County or District Police Magistrate may appoint a Constable for the county or district of which he is a Police Magistrate to hold office for not more than thirty days.

Certain Police
Magistrates
may appoint
temporary
Constables.

(2) The Police Magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

(3) The appointment may be revoked by the Police Magistrate, or by the Provincial Secretary, before the expiration of the thirty days.

(4) A Constable appointed by a Police Magistrate shall have the same authority and privileges, and be subject to the same liability and perform the same duties as if appointed by a Court of General Sessions of the Peace. R.S.O. 1897, c. 99, s. 16.

7. Every Constable shall, before entering on the duties of his office, take, subscribe and deposit with the Clerk of the Peace the following oath:

Constables to
be sworn.

The Oath.

I, _____, having been appointed Constable for _____ do swear that I will truly, faithfully and impartially perform the duties appertaining to the said office, according to the best of my skill and ability: So help me God.

Sworn, etc.

A. B.

R.S.O. 1897, c. 99, s. 2.

HIGH CONSTABLE.

Appointment, remuneration and equipment of High Constable.

8.—(1) The municipal council of every county shall, by by-law, appoint a fit and proper person to be High Constable for the county, and may fix his remuneration by salary or otherwise, and may allow him such sums for expenses, and may supply him with such arms and accoutrements, clothing and other necessaries as may be deemed proper. R.S.O. 1897, c. 99, s. 4.

When council neglects to appoint.

(2) If the council does not within three months after a vacancy occurs fill the same, the appointment may be made by the Judge of the County Court, the Warden, the Sheriff and the Crown Attorney, or any three of them, and the person so appointed shall hold office until his appointment is confirmed, or a new appointment made by the council. R.S.O. 1897, c. 99, s. 5.

Oath of High Constable.

9.—(1) Every person appointed to be a High Constable shall before entering on the duties of his office, take and subscribe the following oath:

Form of.

I, _____, do swear that I will well and truly serve Our Sovereign Lord the King in the office of High Constable for the county (or united counties) of _____ without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God.

Sworn, etc.

C. D.

Oath and appointment to be deposited with Clerk of Peace.

(2) The oath, together with a copy of the by-law by which the High Constable was appointed, shall be by him deposited in the office of the Clerk of the Peace, who shall immediately notify the Inspector of Legal Offices of the appointment. R.S.O. 1897, c. 99, s. 7.

High Constable to hold office during pleasure of Council.

10. A High Constable shall hold office during the pleasure of the council. R.S.O. 1897, c. 99, s. 8.

To have supervision of other Constables.

11. A High Constable shall have the supervision of all the Constables in his county and shall be charged with the special duties of preserving the peace, preventing crime, and

and apprehending offenders; and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities, which belong to Constables. R.S.O. 1897, c. 99, s. 9.

12. A High Constable for services rendered by him shall be entitled to the fees allowed by law, unless the council otherwise provides for payment therefor. R.S.O. 1897, c. 99, s. 11. To be entitled to fees unless otherwise provided.

13. Every Constable appointed by the authority of this Act shall be a County Constable. R.S.O. 1897, c. 99, s. 15, *part*. Constable to be County Constable.

RETURNS BY CONSTABLES.

14.—(1) Every High Constable and every Constable, whether appointed under the authority of this or any other Act, shall make such returns respecting his duties and acts as the Inspector of Legal Offices requires. R.S.O. 1897, c. 99, s. 19, *part*. High and County Constables to make returns.

(2) This section shall not apply to a city or to a town having a Board of Commissioners of Police.

INQUIRIES BY INSPECTOR.

15.—(1) The Inspector of Legal Offices shall have authority to inspect the offices of the High Constables and Constables to which section 13 applies, and may hold inquiries into their conduct in connection with their official duties. R.S.O. 1897, c. 99, s. 18. Supervision by Inspector of Legal Offices.

(2) Where the Inspector institutes an inquiry he may require the officer or any other person to give evidence on oath; and for that purpose shall have the same power to summon such officer and other person to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence, as any Court has in civil cases. R.S.O. 1897, c. 99, s. 19, *part*. Inspector may examine on oath and compel attendance of witnesses.

SUSPENSION FROM OFFICE.

16.—(1) The Judge of the County Court or the Inspector of Legal Offices may suspend from office a High Constable or any County Constable for any period not extending beyond one week after the time appointed for the next sittings of the Court of General Sessions of the Peace. Suspension of Constables by County Court Judge or Inspector.

(2) The suspension shall be by notice in writing and, if the Judge or the Inspector considers the suspended officer deserving

deserving of dismissal, he shall, immediately after suspending him, report the case fully to the Clerk of the Peace for submission to the Court of General Sessions of the Peace at its next sittings.

(3) The Court may dismiss the officer or direct him to be restored to his office, after the period of his suspension has expired, or after such further period as may be deemed proper. R.S.O. 1897, c. 99, s. 17.

ONTARIO POLICE FORCE.

Orders in
Council
confirmed.

17.—(1) The Orders in Council passed on the 13th day of October, 1909, and on the 4th day of February, 1910, providing for the organization of the Ontario Provincial Police Force are confirmed and in so far as the same fix the salaries and other allowances to be paid to the members of the Force shall take effect as from the first day of January, 1910.

Ontario Pro-
vincial Police
Force.

(2) There shall be a force of police constables to be known as the Ontario Provincial Police Force.

Composition
of Force.

(3) The force shall consist of a Superintendent and such Inspectors of Criminal Investigation, Divisional Inspectors and Constables as the Lieutenant-Governor may deem necessary and may from time to time appoint, and every member of such force shall have authority to act as a Constable throughout Ontario and shall be deemed to be a Provincial Constable, and all members of the force shall conform to such rules and regulations as may from time to time be prescribed by the Lieutenant-Governor in Council.

Remunera-
tion and
expenses.

(4) Notwithstanding anything in the Orders in Council mentioned in subsection 1 or in this Act contained the Lieutenant-Governor in Council may from time to time fix the salaries, allowances and expenses to be paid to the members of the force and may from time to time alter or cancel the said Orders in Council heretofore made or hereafter made relating to the Ontario Provincial Police Force and such salaries, allowances and expenses shall be payable out of such sum as may from time to time be appropriated by the Legislature for the expenses of the Ontario Provincial Police Force.

Superinten-
dent.

(5) The Superintendent shall have control of the Force and may hold an enquiry into the conduct of any member thereof and upon such enquiry shall have and may exercise the like powers and authority as are conferred on the Inspector of Legal Offices by section 15 with respect to High Constables.

(6) The Lieutenant-Governor where he deems proper may authorize any person not a member of the Force to exercise the powers of a Provincial Police Constable.

Exemption of
Volunteers
from serving
as Constables.

PERSONS EXEMPT.

18. The officers, non-commissioned officers and men of every militia corps shall be exempt from serving as Constables except as Special Constables; and a certificate under the hand of the officer commanding the corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption. R.S.O. 1897, c. 99, s. 22.

Members of
militia corps
exempt from
service.

APPOINTMENT OF SPECIAL CONSTABLES.

19. If it is made to appear to any two or more Justices of the Peace upon the oath of any credible witness, that any tumult, riot, or felony has taken place or is continuing or may be reasonably apprehended within the limits for which such Justices have authority to act, and the Justices are of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property, such Justices may, by writing under their hands, appoint so many as they think fit of the householders or other persons not legally exempt from serving in the office of Constable, residing within such limits, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to such Justices may seem necessary. R.S.O. 1897, c. 99, s. 23.

Any two or
more Justices
of the Peace
empowered to
appoint special
constables in
certain cases
of apprehension
of riot, etc.

Who may be
appointed.

20. The Justices of the Peace who appoint Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting within the same limits, may administer to any person so appointed the following oath:

Such Justices
may administer
an oath of office
to the person
so appointed.

" I, A. B., do swear that I will well and truly serve our Sovereign Oath. Lord the King in the office of Special Constable for the of , without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God."

R.S.O. 1897, c. 99, s. 24.

21. Where it is deemed necessary to appoint Special Constables, notice of the appointment, and of the circumstances

Notice of
appointment.

stances

stances which rendered it expedient, shall be forthwith transmitted by the Justices making the appointment to the Provincial Secretary. R.S.O. 1897, c. 99, s. 25.

Justices may make regulations touching special constables.

22. The Justices who appoint any Special Constable, under this Act, or any two of them, or the Justices acting within the limits for which the Special Constable has been appointed, or the majority of them, may make such orders and regulations as they may deem necessary or expedient for rendering the Special Constables more efficient for the preservation of the public peace, and may remove any such Special Constable from his office for any misconduct or neglect of duty therein. R.S.O. 1897, c. 99, s. 26.

Powers of special constables, and local extent of such powers.

23. Every Special Constable appointed under this Act, not only within the territorial division or place for which he has been appointed, but also throughout the entire jurisdiction of the Justices who appointed him, shall have and may exercise the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as any other Constable. R.S.O. 1897, c. 99, s. 27.

Constables may act in an adjoining division in certain cases

24. Where a Special Constable appointed under this Act is serving within a territorial division or place, and two or more Justices of the Peace of an adjoining territorial division or place make it appear, to the satisfaction of two or more Justices of the Peace acting within the limits for which the Special Constable is serving, that extraordinary circumstances exist which render it expedient that the Special Constable should act in such adjoining territorial division or place, the last mentioned Justices may order such Special Constable to act in such adjoining territorial division or place in such manner as to the last mentioned Justices may seem proper, and notice of such order shall be forthwith transmitted by the Justices to the Provincial Secretary. R.S.O. 1897, c. 99, s. 28.

Their powers in such adjoining division.

25. Every such Special Constable, during the time he so acts in such adjoining territorial division or place, shall have, and may exercise all the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities, as if he were acting within the territorial division or place for which he was originally appointed, R.S.O. 1897, c. 99, s. 29.

Special constables may be paid a per diem allowance.

26.—(1) The Justices of the Peace acting within the limits for which the Special Constable has been appointed or a majority of them may order such reasonable allowances for his trouble, loss of time and expenses, not exceeding \$1 a day, to be paid to such Special Constable who has so

served

served or is then serving, as to such Justices, or to the majority of them may seem proper. R.S.O. 1897, c. 99, s. 30.

(2) Such order shall be made upon the Treasurer of the territorial or municipal division for which the Special Constable has been appointed, and the Treasurer shall pay the same, and shall be allowed the same in his accounts. R.S.O. 1897, c. 99, s. 31.

Allowance to be paid by the Treasurer of the municipality.

27. The Justices who have appointed a Special Constable, or the Justices acting within the limits for which the Special Constable has been appointed, or a majority of them, may suspend or terminate the service of the Special Constable so appointed, and notice of such suspension or termination shall be forthwith transmitted by the Justices to the Provincial Secretary. R.S.O. 1897, c. 99, s. 33.

Justices may suspend or determine the services of special constables.

PENALTIES.

28. Every Special Constable, within one week after the expiration of his term of office, or after he has ceased to hold or exercise the same pursuant to this Act, shall deliver to his successor, if any, or to such persons and at such time and place as may be directed by a Justice of the Peace acting within the limits for which the Special Constable was appointed, every staff, weapon and other article which has been provided for such Special Constable under this Act; and if a Special Constable neglects or refuses so to do, he shall incur a penalty not exceeding \$8. R.S.O. 1897, c. 99, s. 34.

Special constables to deliver up their staves, etc., when discharged.

29. If a person appointed to be a Special Constable

(a) Refuses to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace who appointed him or by any two of them or by any other two Justices of the Peace acting within the limits for which he was appointed, or

(b) Neglects or refuses to appear for the purpose of taking the oath at the time and place for which he has been summoned unless he proves that he was prevented from so doing by sickness or some unavoidable cause, or

(c) Being called upon to serve, neglects or refuses to serve or to obey such lawful orders or direc-

Penalty for refusing to take oath or act as constable.

tions as may be given to him for the performance of the duties of his office,

he shall incur a penalty not exceeding \$20. R.S.O. 1897, c. 99, ss. 35, 36, 37.

Recovery of
penalties.

10 Edw. VII.,
c. 37.

30. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act* and shall be paid to the Treasurer of the territorial or municipal division within which the offence was committed. R.S.O. 1897, c. 99, s. 43.

Repeal.

31. Chapter 99 of the Revised Statutes of Ontario, 1897, and all amendments thereto, and section 48 of Chapter 109 of the said Revised Statutes are repealed.

CHAPTER 40.

An Act to authorize Police Constables to take Bail.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Police Constables Bail Act*." Short title.

2.—(1) Where a person charged with an offence against any Provincial Act, or against any by-law passed under the authority of any such Act, is taken into custody either with or without the warrant of a Justice of the Peace and is brought into a police station in a city or town at any time during the day or night, the police officer in charge of the station, if he thinks the case a proper one, may take bail, without fee, from such person, by recognizance conditioned for his appearance within two days before the Police Magistrate or other Justice in the city or town at the time and place therein mentioned. When officers in charge of police station may take bail. R.S.O. 1897, c. 100, s. 1.

(2) The recognizance shall be of equal obligation on the persons entering into the same, and the same proceedings may be taken for the estreating thereof as if it had been taken before a Justice of the Peace. Effect of recognizance so taken. R.S.O. 1897, c. 100, s. 2.

3. The police officer shall enter in a book the name, residence and occupation of the person entering into the recognizance, and of his surety or sureties, if any, with the condition of the recognizance and the sums acknowledged; and a proper book shall be kept in every city or town police station for the purpose of making such entries. Entry of recognizance by person taking same. R.S.O. 1897, c. 100, s. 3.

4. The police officer shall make a return of all recognizances taken by him to the Police Magistrate, or other Justice present, at the time when and place where the person charged is required to appear. Return of recognizance to Magistrate on day for appearance of accused. R.S.O. 1897, c. 100, s. 4.

Record of
recognizance
when accused
fails to appear.

5. If the person charged does not appear at the time and place required, or during the time such Police Magistrate or other Justice is sitting, the Police Magistrate or Justice shall, within forty-eight hours after such failure to appear, cause a record of the recognizance to be drawn up and signed by the police officer, and shall return the same to the Court of General Sessions of the Peace for the county or district in which the city or town is situate, at its next sittings, with a certificate, signed by the Police Magistrate or Justice, stating that the person charged has not complied with the obligation contained in the recognizance. R.S.O. 1897, c. 100, s. 5.

Proceedings
for estreat of
recognizance.

10 Edw. VII.,
c. 43.

6. The Clerk of the Peace shall make the like record of estreat of every such recognizance as in the case of other recognizances forfeited at the Court of General Sessions of the Peace and the provisions of *The Estreats Act* shall apply to such recognizance. R.S.O. 1897, c. 100, s. 6.

Enlarging
recognizance.

7. If the person charged applies, in person or by any person on his behalf, to postpone the hearing of the charge against him, the Police Magistrate or Justice may from time to time enlarge the recognizance to such further time as he may appoint; and, unless the sureties, if any, appear and object, they shall continue bound until the final determination of the charge before such Police Magistrate or Justice. R.S.O. 1897, c. 100, s. 7.

Recognizance
to be dis-
charged
without fee.

8. When the matter is heard and determined, either by the dismissal of the charge or by binding over the person charged to answer the matter of the complaint at the Court of General Sessions of the Peace or otherwise, the recognizance shall be discharged, without fee. R.S.O. 1897, c. 100, s. 8.

Repeal.

9. Chapter 100 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

CHAPTER 41.

An Act respecting the Expenses of the Administration of Justice.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

PART I.

RULES PRESCRIBING FEES OF
COUNSEL, SOLICITORS AND
OTHERS, s. 2.

FEES OF SHERIFFS, CORONERS,
CLERKS OF THE PEACE, CON-
STABLES AND CRIERS, ss. 3-5,
7, 10.

LEVYING FEES, s. 6.

PENALTIES FOR TAKING UNAU-
THORIZED FEES, s. 8.

FEES TO GAOL SURGEONS, s. 9.

SPECIAL ALLOWANCES AND AD-
VANCES TO CONSTABLES, ss.
11, 12.

PROLONGED SITTINGS OF COURT,
s. 13.

PART II.

FEES PAYABLE BY COUNTIES, ss.
14-17.

AUDIT AND PAYMENT THEREOF, ss.
18-28.

PART III.

ACCOUNTS PAYABLE BY PROVINCE.

Audit thereof, ss. 29-38.

Transmission of accounts to
Clerk of Criminal Justice
Accounts, s. 39.

Power of Provincial Treasurer
to disallow items, s. 40.

PART IV.

PAYMENT OF ACCOUNTS OUT OF
CONSOLIDATED REVENUE
FUND, s. 41.

REPEAL, s. 42.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Administration of Jus-Short title.
tice Expenses Act.*"

PART I.

FEES OF OFFICERS.

2. Where not otherwise provided by law, the Judges <sup>Tariffs of fees,
how to be
framed.</sup> authorized to make Rules under *The Judicature Act* may
make Rules fixing and determining the fees to be allowed to
Counsel, Solicitors and other officers and persons for or in
respect of any criminal prosecutions, matters, and proceed-
ings in the High Court or Court of General Sessions of the
Peace, or under any Commission or Special Commission, or
relating to the King's Revenue, and shall therein distinguish
the fees to be paid by private individuals. R.S.O. 1897,
c. 101, s. 1. <sup>Rev. Stat. c.
51.</sup>

Fees in criminal matters—to Sheriffs, County Crown Attorneys, Coroners, Clerks of the Peace, etc.

3. Subject to such Rules, the table of fees in Schedule A shall be the fees to be taken by Sheriffs, Coroners, Clerks of the Peace, Crown Attorneys, Constables and Criers respectively for the services therein mentioned, in respect of any business transacted by them in any such prosecution, matter, or proceeding, and in proceedings in the County or District Court Judge's Criminal Court and before Coroners, Police Magistrates, and Justices of the Peace. R.S.O. 1897, c. 101, s. 2; 3 Edw. VII., c. 7, s. 23.

Arrangement may be made with Clerk of the Peace as to his fees.

4. A County Council may agree with the Clerk of the Peace for the payment to him of a gross annual sum in lieu of all fees chargeable by him to the county, and which are not repayable to the county by the Province; but either of the parties to the agreement may determine the same on the 31st day of December in any year, by giving to the other one month's notice, in writing, of the intention so to do. R.S.O. 1897, c. 101, s. 3.

Fees to constables.

5.—(1) Every constable attending the Assizes or Sessions shall be allowed for each day's attendance the sum of \$2, one-quarter of which shall be payable out of the County funds. *New.*

(2) The Lieutenant-Governor in Council may alter the fees to be taken by constables. R.S.O. 1897, c. 101, s. 4.

Levying fees.

6. All percentages, fees or allowances on levying fines and recognizances may be levied over and above the amount of the fines and recognizances. R.S.O. 1897, c. 101, s. 5.

Fees for services not mentioned herein.

7. Nothing herein shall deprive any of the officers mentioned in section 3 of fees allowed by any Act of the Parliament of Canada, or of the Legislature, for other services not herein provided for. R.S.O. 1897, c. 101, s. 6.

Penalty for taking higher fees.

8. If any such officer wilfully demands or receives any other or greater fee, percentage, or allowance than the fee, percentage, or allowance to which he is entitled under this Act, for any of the services performed by him, unless allowed by an Act of the Parliament of Canada, or of the Legislature, or by the Lieutenant-Governor in Council under section 5, he shall, for every such offence, incur a penalty not exceeding \$60, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 101, s. 7.

10 Edw. VII., c. 37.

Fees of Gaol Surgeons.

9. A Gaol Surgeon for the examination of each prisoner eligible for removal, or sentenced to the Central Prison, or to a Reformatory, including certificate, shall be entitled to receive a fee of \$1. R.S.O. 1897, c. 101, s. 9.

Certain items to apply to certain counties.

10. Items numbered 14, 16, 32, 35, 41 and 42, as to Sheriff's fees in Schedule A, shall apply in any year to any county in which the net income of the Sheriff for the next preceding

preceding year did not exceed \$2,000, and not otherwise, and items numbered 16, 32, 33, 43, 44 and 45 shall not apply to the County of York or to the City of Toronto. R.S.O. 1897, c. 101, s. 11.

11.—(1) Where, in the opinion of the Warden and Crown Attorney, special services not covered by the ordinary tariff are necessary for the detection of crime or the capture of a person who is believed to have committed a crime of a serious character, they may authorize and direct any constable or other person to perform such service, and shall certify upon the account to be rendered by the constable or other person what they deem a reasonable allowance to be paid to the person employed, and the amount so certified shall be allowed to such person in the accounts in respect of the administration of justice, and shall be paid in the first instance by the county.

Allowance to constables and others for special services.

(2) The Warden and Crown Attorney may direct the treasurer of the county to advance to the constable or other person such sum as they may name, for the purpose of paying the reasonable and necessary expenses incurred, or to be incurred, by such constable or other person in the performance of such special services; and the treasurer of the county shall pay such sum upon the written order of the Warden and Crown Attorney, and shall deduct the amount thereof from the subsequently certified account of the constable or other person employed.

Advances to constables, etc., for special services.

(3) This section shall not apply to services in a city or separated town for which there is a staff of salaried police officers, and no allowance shall in any other case be made under subsection 1 to any salaried constable or other officer, unless he is entitled to receive for his own use, in addition to his salary, the fees earned by him. R.S.O. 1897, c. 101, s. 12.

Application of this section

(4) This section shall apply *mutatis mutandis* to Districts without County organization, the "Sheriff" being substituted for the "Warden"; and the Treasurer of the District shall pay or advance the amount certified or directed by the Crown Attorney and the Sheriff in the same manner as the Treasurer of the County is required to do by subsections 1 and 2.

In districts.

12. In case of emergency the reeve of the municipality in which a crime of a serious character is supposed to have been committed may, jointly with the Crown Attorney, direct the payment in advance by the County Treasurer to any high or county constable of a sum not exceeding ten dollars, in respect of any special services deemed by them to be necessary for the detection of the crime or the capture of a person who is supposed to have committed it; and they shall certify on the account to be rendered by the constable what

In case of emergency Reeve and Crown Attorney may order advance to constable.

what they may deem to be a reasonable allowance for the services, and the treasurer shall, on their written order, pay the sum so directed to be advanced, as in other cases in the administration of justice. R.S.O. 1897, c. 101, s. 13.

Allowance in case of prolonged sittings.

13. Where a sittings of the High Court, County or District Court, or Court of General Sessions of the Peace is continued after eight o'clock in the evening, an additional allowance, not exceeding one day's pay, may, upon the certificate of the presiding Judge, be made to any officer in attendance upon such Court who is paid for services by a *per diem* allowance. R.S.O. 1897, c. 101, s. 14.

[*As to return of fees by Clerks of the Peace, see Cap. 96, sec. 18.*]

PART II.

Fees payable by Counties, except fees for services for private benefit of individuals.

14.—(1) All fees payable under Part I. to the officers therein mentioned, for services in proceedings in the nature of a civil remedy, for persons at whose instance and for whose private benefit the same are performed, shall be paid by such persons; and, except as herein or by law otherwise provided, all other fees payable to such officers for services connected with the administration of justice or county purposes shall be paid, in the first instance, by the county; and the counties paying the fees shall be entitled to be reimbursed out of the Consolidated Revenue Fund the amount of such of the fees as are payable out of that Fund under the provisions of Part IV. R.S.O. 1897, c. 102, s. 1.

(2) Where an allowance to a constable or other person under section 11 is paid by the county, one-half thereof shall be repaid to the county by the Province.

Fees of sheriffs.

15.—(1) The tariff of fees established by this Act for the services of Sheriffs in connection with offenders sentenced or liable to be removed to the Central Prison shall apply also to offenders sentenced or liable to be removed to a Reformatory.

(2) The fees shall, in the first instance, be paid by the county, unless the gaol is owned and maintained by a city, in which case the fees, in respect of prisoners convicted for offences committed within the city limits, shall be paid in the first instance by the city, and, so far as they relate to prisoners convicted for offences committed in the county without the limits of the city, shall be paid in the first instance by the county.

(3) The county or city shall be repaid out of the Consolidated Revenue Fund such part thereof as relates to prisoners convicted of indictable offences at the High Court,
Court

Court of General Sessions of the Peace, or County or District Court Judge's Criminal Court, or by Police Magistrates, R.S.C., c. 146, under Part XV. of *The Criminal Code*. R.S.O. 1897, c. 101, s. 10.

16. Where a person is prosecuted or tried for an indictable offence and convicted or acquitted or otherwise discharged, the costs of the prosecution, when not otherwise provided by law, shall be paid by the county. R.S.O. 1897, c. 102, s. 2.

In cases of indictable offences costs to be paid out of the county funds.

17. Where a person is charged with an indictable offence, every officer of the Court before which he is tried, or any proceeding is had with regard to the charge, who renders any official service in the matter of the charge, or in the course of the trial, to the person so charged, shall be paid his lawful fee for such service by the county, in the same manner as other fees payable to them in respect of official services rendered to the Crown in the conduct of public prosecutions, and no such fee shall in any case be demanded of or be payable by the person charged. R.S.O. 1897, c. 102, s. 3.

In cases of indictable offences fees for services to person charged to be paid from the county funds.

18.—(1) Subject to the provisions of Part III., all accounts and demands preferred against a county in respect of the administration of criminal justice shall be audited and approved by the Board of Audit hereinafter mentioned. R.S.O. 1897, c. 102, s. 4.

Accounts against county to be audited by a Board of Audit.

(2) The accounts and demands shall be delivered to the Clerk of the Peace on or before the first days of January, April, July and October, in every year. R.S.O. 1897, c. 102, s. 5.

Accounts to be sent to Clerk of Peace quarterly.

19.—(1) The Board of Audit shall consist of the Judge of the County Court and two other persons, not more than one of whom shall be a member of the Council, who shall be appointed annually at its first meeting by the Council of the county. R.S.O. 1897, c. 102, s. 6, *part*.

Board, how constituted and paid.

(2) Where a city forms part of a county for judicial purposes and pays a part of the expenses of the administration of Justice, the City Council shall appoint one member of the Board of Audit, the other auditor being appointed by the County Council.

(3) The county and city council may pay each member of the Board a sum not exceeding \$4 a day for his attendance at the audit and five cents for each mile necessarily travelled in going to and returning therefrom. 3 Edw. VII., c. 19, s. 530, *part*.

(4)

(4) The Junior Judge, in the absence or at the request of the Judge, may act in his stead. *Néw.*

Duties of
Clerk of the
Peace at audit.

20. The Clerk of the Peace, on the direction of the Judge, shall convene the Board for the purpose of submitting to it the accounts and demands delivered to him, and shall attend the audit, record the proceedings thereat, and carry out the orders of the Board in respect of the same. R.S.O. 1897, c. 102, s. 7.

When board
to consider
accounts.

21.—(1) The accounts and demands shall be taken into consideration by the Board between the first and fifteenth days of January, April, July and October, in each year, and shall be disposed of as soon as practicable.

Report.

(2) The Board, on the completion of the audit, to be made in October, shall make a report to the council of any irregularity in the accounts and demands, or of any claim made contrary to law, or of any other matter which the Board considers should be brought to the notice of the council. R.S.O. 1897, c. 102, s. 6.

Discretion of
Board in case
of arrest of
vagrants.

22. Where the account of a constable for services performed in connection with the arrest and detention of vagrants is deemed unreasonable, or the arrests appear to have been unnecessary or to have been made for the purpose of making fees, the Board may refuse to certify the accounts, in whole or in part, or may certify the facts and its opinion thereon to the county council, which may, by resolution, refuse payment of such accounts, in whole or in part. R.S.O. 1897, c. 102, s. 8.

Orders given
to specify Act
authorizing
payment.

23. In certifying accounts, except for the payment of constables, the Board shall name the Statute, if any, under which the expenditure is authorized. R.S.O. 1897, c. 102, s. 9.

Items dis-
allowed by
Provincial
Treasurer
may be de-
ferred from
next accounts.

24. The Treasurer of the county shall notify the Board of the items disallowed by the Treasurer of Ontario in the criminal justice accounts of the previous quarter, and the Board may deduct the amounts so disallowed from the next or any accounts of the same officers submitted for audit. R.S.O. 1897, c. 102, s. 10.

Payment of
percentage on
constable's
account on
recommenda-
tion of County
Judge.

25. On the presentation of his account for services and disbursements duly verified, with the certificate of the Magistrate, Schedule B, and a recommendation of the Judge of the County Court, naming the amount, a High or County Constable shall be entitled to be paid seventy-five per cent. of such account, without waiting for a meeting of the Board to pass the same; but if the Board afterwards finds that the constable

constable has been overpaid, he shall refund the amount overpaid, and if not refunded it may be deducted from his next or any subsequent account. R.S.O. 1897, c. 102, s. 11.

26. In proper cases the Board may, upon the recommendation in writing of the Magistrate and High Constable, allow a reasonable amount to a County Constable for his services, in addition to the fees provided for by Schedule A. R.S.O. 1897, c. 102, s. 12.

Board of Audit may allow sum in addition to tariff fees.

27. The Board may direct the treasurer to defer payment of any account, or any item in any account, payable out of the Consolidated Revenue Fund in respect of which it doubts either the liability of the Province or the correctness of the amount charged, until the decision of the Treasurer of Ontario as to the correctness or allowance of the account or item has been notified to the treasurer. R.S.O. 1897, c. 102, s. 13.

Doubtful items in accounts may be deferred.

28. The treasurer of every county shall, without further authority, pay the amount of the fees which are payable by the county, when certified by the Board, and in preference to all other charges, unless otherwise provided by law, and in the following order, that is to say, after the expenses of levying and collecting and managing the rates and taxes imposed in the county are paid:—

County Treasurer's duty.

- (a) All sums payable to the sheriff, coroner, gaoler, surgeon of the county gaol, or to any other officer or person, for the support, care or safe-keeping of the prisoners in the county gaol, or for the repairing and maintaining of the court house or gaol; Order of payment for accounts.
- (b) The accounts of public officers and officers of the Court of General Sessions of the Peace;
- (c) All sums payable for any other purpose connected with the administration of justice within the county;
- (d) All other sums certified by the Board in the order in which the same were certified. R.S.O. 1897, c. 102, s. 14.

PART III.

29. The Lieutenant-Governor in Council may appoint the Local Registrar or Deputy Clerk of the Crown of the county, or some other public officer resident in the county town, to be

Auditors of accounts payable by Province.

be the auditor of the accounts relating to the administration of justice in the county, for which the Province is liable. R.S.O. 1897, c. 103, s. 1.

Audit of certain items by county auditor dispensed with.

30. Where such an appointment is made it shall not be requisite for the Board of Audit appointed under Part II. to audit or approve any account in respect of items set out in Schedule A, under any of the following headings, namely:—"Sheriffs," "Coroners," "Clerks of the Peace," "Criers" and "Constables," where the accounts rendered under these headings are in respect of offences belonging to any of the following classes:—

(a) Offences for which the persons charged were committed or held to bail for trial at the High Court or General Sessions of the Peace;

(b) Offences for which the persons charged were convicted before a Police Magistrate, under Part XV. of *The Criminal Code*.

R.S.C. c. 146.

Or in respect of fees to gaol surgeons under the heading "Other Matters" in such schedule. R.S.O. 1897, c. 103, s. 2.

Audit by County Auditors.

31. All other accounts in connection with the administration of civil or criminal justice which, under Parts I. and II. or otherwise, are payable by the county, shall be audited by the Board of Audit. R.S.O. 1897, c. 103, s. 3.

Accounts which are to be audited by auditor appointed under s. 28.

32. Where such an appointment is made, all services heretofore performed under the regulations provided for by Part IV., in respect of the auditing and approving of accounts relating to the administration of justice, and in respect of the auditing of accounts of the Crown Attorney, for which the Province is liable, shall thereafter be performed by the auditor so appointed, who, so far as the auditing and approving of such accounts is concerned, shall be substituted for the Board of Audit, wherever the board is mentioned in Part II. R.S.O. 1897, c. 103, s. 4.

When accounts to be delivered to auditor.

33. All accounts and demands to be audited by the auditor shall be delivered to him in duplicate, on or before the tenth day of every month, and shall include all demands of the person rendering the same up to the last day of the next preceding month. R.S.O. 1897, c. 103, s. 5.

Form of account.

34. Every account shall be rendered in the form in Schedule B, or in such other form as the Lieutenant-Governor in Council may prescribe, and shall be verified by the
oath

oath of the claimant that the account is correct in every particular, and, when mileage is charged, the places from and to which the mileage is reckoned, and the number of miles shall be mentioned; and in no case shall more than the actual number of miles travelled be allowed, nor where the service is by a sheriff's officer shall a greater number of miles be allowed than the distance from the court house to the place of service; and the separate items in such account shall be numbered consecutively. R.S.O. 1897, c. 103, s. 6.

35. Forms of account, in accordance with Schedule B, or such other form as may be prescribed by the Lieutenant-Governor in Council, shall be provided by the county, and shall on application be furnished by the county treasurer to the officers requiring them. R.S.O. 1897, c. 103, s. 7.

36. Every account of a constable shall be certified by the justice or coroner under whose direction the constable acted. R.S.O. 1897, c. 103, s. 8.

37. The auditor may call upon the claimant for any information that may be required in connection with his account, and for a reference to the authority for the charges made, and may administer an oath to the claimant or to any other person giving evidence in respect of the claim, but shall make no charge therefor. R.S.O. 1897, c. 103, s. 9.

38. The auditor shall audit each account on receipt thereof, or as soon thereafter as he reasonably can, and, if the claimant so desires, in his presence; the auditor shall note with red ink in the proper column of the account the item or items disallowed or deferred for further inquiry, distinguishing those disallowed from those deferred; and he shall forthwith, after audit, transmit one of the duplicates of each account to the county treasurer, having first indorsed on such account a certificate shewing the amount found to be due to the claimant. R.S.O. 1897, c. 103, s. 10.

39. The treasurer of the county shall pay the accounts so approved and take receipts therefor, and shall transmit the receipted accounts, with a proper statement of account, to the clerk of criminal justice accounts at Toronto, and warrants shall be issued for the amount of such payments to the county treasurer quarterly. R.S.O. 1897, c. 103, s. 11.

40. The Treasurer of Ontario may disallow any sum which has been improperly allowed by the auditor, and, unless the same is disallowed because not payable by the Province, if the same has been paid meanwhile by the county treasurer, he shall deduct the amount from any moneys which may

may within a year next thereafter be payable by the county to the person to whom the payment was erroneously made; and if no moneys, or not sufficient moneys, shall be so payable, the Province shall make good to the county the amount or the deficiency, as the case may be. R.S.O. 1897, c. 103, s. 12.

PART IV.

Payment
of expenses
of criminal
justice.

41.—(1) Such of the expenses of the Administration of Criminal Justice as are mentioned in Schedule C shall be paid out of the Consolidated Revenue Fund. R.S.O. 1897, c. 104, s. 1.

Subject to
Part III.
all accounts
to be audited
in such manner
as the Lieut.-
governor in
Council
appoints.

(2) Subject to the Provisions of Part III., all accounts of or relating to such expenses shall be examined, audited, vouched, and approved under such regulations as the Lieutenant-Governor in Council may prescribe. R.S.O. 1897, c. 104, s. 2

REPEAL.

Repeal.

42. Chapters 101, 102, 103 and 104 of the Revised Statutes, 1897, and section 580 of *The Consolidated Municipal Act, 1903*, and all amendments thereto are repealed.

3 Edw. VII.
c. 19.

SCHEDULE A.

FEEES TO BE RECEIVED BY SHERIFFS, CORONERS, CLERKS OF THE PEACE, CROWN ATTORNEYS, CONSTABLES AND CRIERS:

SHERIFFS.

1. Attending sittings of the High Court, <i>per diem</i>	\$5 00
2. Attending the General Sessions, <i>per diem</i>	5 00
3. Summoning each Grand Jury for the High Court or General Sessions	12 00
4. Summoning each Petit Jury for the High Court or General Sessions	24 00
5. For every prisoner discharged from gaol, having been committed by warrant for trial at the High Court or General Sessions	1 00
6. For the discharge from gaol of every prisoner convicted by a Police Magistrate under Part XV. of <i>The Criminal Code</i>	1 00
7. Bringing up each prisoner for arraignment, trial and sentence—in all, for each prisoner, whether convicted or acquitted	2 00
8. For arraignment, trial and sentence, in all for each prisoner, whether convicted or acquitted, who has been out on bail	2 00
9. Drawing Calendar of Prisoners for trial at the High Court, including copies	5 00
10. Advertising the holding the sittings of the High Court..	4 00
11. Advertising the holding of the Court of General Sessions.	4 00
12. Every Annual or General Return, required by law or by the Government, respecting the Gaol or the Prisoners therein	5 00
	13

13. Every other Return made to the Government	4 00
14. Every Return made to the Assembly	4 00
15. Every Return to the Court of General Sessions of the Peace required by Statute or by order of the Court..	2 00
16. Every Return required by the county council	1 00
17. Every Return to the Inspector of Legal Offices	2 00
18. Drawing calendar of prisoners for trial at the General Sessions, including copies	4 00
19. Returning Precepts to the High Court or General Ses- sions	4 00
20. Conveying prisoners sentenced at High Court or General Sessions to the Penitentiary or Reformatory, or to another county (exclusive of disbursements), for each day necessarily employed	6 00
21. Arrest of each person upon a warrant, (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	3 00
22. Serving subpoena upon each person, (<i>to be paid out of the County funds or by the party, as the case may be</i>)....	1 00
23. Travelling in going to execute warrant or serve subpoena, or in returning with a prisoner, <i>per mile actually travelled</i>	12
(<i>To be paid out of the County funds, or by the party, as the case may be; where the service has not been effected, the Board of Audit is to be satisfied that due diligence has been used.</i>)	
24. Conveying prisoners on attachment, Judge's Order or <i>Habeas Corpus</i> , to another county or district, exclu- sive of disbursements, where no charge allowed by law, for each day necessarily employed, (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	6 00
25. Making return upon attachment or writ of <i>Habeas Cor- pus</i> , (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	2 00
26. Levying fines or issues on recognizances estreated, or <i>other process (to be levied under section 6 of Part I.)</i> .....\$5 per \$100 on the first \$400 of the sum levied, exclusive of mileage at 10 cents per mile, and on all sums above \$400, the same allowance as on executions in civil proceedings. Where a levy has not been made, \$2 for every \$100 of the amount re- ceived in lieu of above amount.	
27. Carrying into execution the sentence of the Court in capital cases.....All such sums as are un- avoidably disbursed.	
28. Attending and superintending the execution in such cases	20 00
29. Summoning each Constable to attend the High Court or General Sessions, exclusive of mileage at 10 cents a mile	50
30. Keeping a Record of Jurors who have served each Court..	2 00
31. Disbursements actually and necessarily made in guard- ing prisoners, or in their conveyance to the Peniten- tiary or Reformatory, to any other county or elsewhere, or for other purposes in the discharge of the duties of his office (where not provided for by law, nor herein- before specifically provided for) to be rendered in account in detail with the proper vouchers, to the satisfaction of the Board of Audit, and to be by the Board allowed	
32. Disbursements actually and necessarily incurred while in attendance upon a Judge of the High Court when hold- ing a sittings of the High Court, or incurred in obedi- ence to his order, to be paid by the Treasurer of the County upon the order of the Sheriff	
33. Keeping a record of Constables at the High Court or General Sessions, each	2 00

For services in the County or District Court Judge's Criminal Court.

34. Notification to judge, for each prisoner	1 00
35. Bringing up each prisoner before judge, to elect as to mode of trial, including attendance at Court	2 00
36. Bringing up each prisoner for arraignment on trial, and for sentence, including attendance at Court, whether convicted or acquitted	2 00
37. Serving subpoenas, arrest under warrant, travel to serve or execute a process, and conveying prisoner to Penitentiary or Reformatory—the like sum as is allowed for like services in other cases under this Act.	

For services in connection with offenders sentenced, or liable to be removed to the Central Prison.

38. Making special return of prisoners sentenced to Central Prison, and of prisoners eligible for removal to Central Prison, as the Inspector may direct (each prisoner)... (Not more than \$5 to be allowed for any one return, and each return must cover all prisoners in gaol when the same is made.)	1 00
39. Certified copy of sentence	50
40. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty	1 00

For other services.

41. Return and services in respect of inquisition on body of a prisoner dying in gaol	4 00
42. General supervision over the gaol and prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage per quarter	25 00
43. Every prisoner discharged from gaol other than prisoners committed by warrant for trial at the High Court or General Sessions	1 00
44. Services performed under section 1059 of <i>The Criminal Code</i> , in each case disposed of under that section....	2 00
45. Each day's attendance at an adjournment of the County or District Court Judge's Criminal Court, in each case Not more than \$4 to be allowed in respect of the same day's service.	2 00

R.S.O. 1897, c. 101, Sched. "Sheriffs"; 62 V. (2),
c. 7, s. 10; 3 Edw. VII., c. 7, s. 23.

CORONERS.

1. Precept to summon Jury	\$0 50
2. Empanelling Jury	1 00
3. Summonses for witnesses, each	25
4. Information or examination of each witness	25
5. Taking every recognizance	50
6. Necessary travel to take an inquest, per mile.....	20
7. Taking inquisition and making return	4 00
8. Every warrant	1 00

R.S.O. 1897, c. 101, Sched. "Coroners."

CLERKS

CLERKS OF THE PEACE.

1. Drawing precepts to summon the Grand and Petit Juries for the General Sessions; attending Judge to sign same; and transmitting to the Sheriff	\$6 00
2. Attending General Sessions or Board of Audit for the first day	6 00
3. For each additional day, not including time occupied by County Court	4 00
4. Making up records of General Sessions (when completed), including quarterly record of returns of convictions required by <i>The Justices of the Peace Act</i> ...	15 00
5. Notice of every appointment of a constable, under <i>The Constables Act</i> , or other officer appointed by the General Sessions or by the Judge	25
6. Drawing every special order of the General Sessions necessary to be communicated to any person, and entering it on record	1 00
7. Notice of any order made by the General Sessions, and letter transmitting same, when necessary	50
8. Copying orders of the Court, and causing the same to be published where necessary, exclusive of the expense of publication, per folio	10
9. Issuing subpoena	75
10. Every copy of subpoena (when necessary and when not made out or charged for by the Crown Attorney)....	25
11. Issuing Bench warrant	1 00
12. Every recognizance to keep the peace, or for good behaviour	1 00
13. Every recognizance to appear	50
14. Calling parties on their recognizance and recording their non-appearance, for each person called	25
15. Discharging a recognizance	50
16. Drawing order of the General Sessions to estreat and put in process (on the whole list)	1 00
17. Entering an order to remit an estreat, and recording an entry of the same	50
18. Preparing list each sittings; specifying names of persons making default under 10 Edw. VII., c. 43, s. 6.	
19. Entering and extracting upon a roll, in duplicate, the fines, issues, amercements, and forfeited recognizances recorded in each sessions, making oath to the same, and transmitting to the sheriff	2 00
20. Making out and delivering to the sheriff the writ of <i>hæri facias</i> and <i>capias</i> thereon	75
21. Making out and certifying copy of roll and return of the sheriff, and transmitting it to the Provincial Treasurer	1 00
22. Copies of depositions or examinations furnished to prisoners accused of felony, or their counsel, per folio of 100 words (when required by the accused, or his counsel, and ordered by the Court. This fee not to be charged when copies are furnished by the Crown Attorney)....	10
23. Receiving and filing each indictment, when bill returned by the Grand Jury	50
24. Receiving and filing each presentment of the Grand Jury	50
25. For a copy of presentment of the Grand Jury, forwarded by order of the Court of General Sessions, per folio..	10
26. Arraigning each prisoner, or defendant	75
27. Record plea, or receiving and filing demurrer	50
28. Empanelling and swearing the Grand Jury	1 00
29. Empanelling and swearing the Petit Jury in each case..	75
30. Swearing each witness before the Grand Jury.....	20
31. Charging the Jury with prisoner or defendant upon each indictment	1 00
32. For filing each exhibit, list, return, or other paper connected with the proceedings in the Court of General Sessions where no charge therefor is specially provided	10

33. Swearing each witness upon any trial or proceeding before the Court	20
34. Receiving and recording verdict of Petit Jury	50
35. Recording each judgment or sentence of the Court	1 00
36. Making out and delivering to the Sheriff a calendar of the sentences in each Court	1 50
37. Making out a certified copy or abstract of sentences sent with the prisoners to the Penitentiary, Central Prison, or Reformatory after each session	1 00
38. Making up record of conviction or acquittal	1 00
39. Discharging prisoner by proclamation, each	50
40. Every allowance of Certiorari, to be paid by the party applying except when he is in indigent circumstances..	1 00
41. Furnishing to Sheriff and each of the Coroners revised lists of constables, when a revision has been made and when ordered to be done by the Justices in General or Adjourned Sessions, for each list	1 00
42. Reading Statute or public proclamation, when required to be done by law	25
43. Making every copy or extract of a record, or paper, or document of any kind, required to be made by law, or by the order of the Justices in Sessions, or by the order of the Government, in any of its departments, or for the information and use of the Government, when required, and when no charge is fixed by law, per folio..	10
44. Causing public notice to be proclaimed in open Court of the General Sessions, of an intention to alter or rescind previous orders respecting the number and extent of any one or more of the Division Court limits, under section 15 of the Division Courts Act	50
45. Drawing up such orders of General Sessions, for altering the limits of Division Courts, per folio	20
46. Making and transmitting copies of such orders to the Government, per folio	10
47. Making and transmitting copies of such orders to each Clerk of a Division Court affected by such alterations, per folio	10
48. Making up book of orders of General Sessions, declaring the limits of Division Courts	1 50
49. Making and transmitting copies (with letter) to the Clerk of each Division Court	1 00
50. Making and transmitting a copy thereof to the Government	1 00
51. For every necessary certificate, per folio	20
52. Making and transmitting to the Provincial Treasurer a return or schedule of all convictions which have taken place before the Court, each list (including letter)....	1 00
53. Causing notice to be published of any special or adjourned General Sessions, when directed by the Chairman, or other two Justices, so to do, besides amount paid for publication	1 00
54. Sending notice of any such General Sessions to the Justices individually, when it is directed by the Chairman, or other two Justices, for each notice	20
55. Attending each adjourned or Special sittings of the General Sessions, and making up record of same, when completed	5 00
56. Making out warrant of distress or commitment, in any case where no fee is specially assigned therefor by any statute, or by this tariff	1 00
57. Swearing constable in open Court	20
58. Receiving, filing, and recording each oath of qualification of a Justice of the Peace	25
59. Every letter written by direction of the Justices in Sessions to the Government, or Justices, or coroners, or constables, or others, upon matters connected with the business of the Court or the administration of Justice	25

60. All necessary outlays for postage and publishing to be added in all cases.

The above Tariff of Fees and Costs shall also be applicable in all proceedings where costs are chargeable or ordered to be paid by private parties, together with the following additional items:

61. Certifying the result of each appeal heard and determined by the Court to the convicting Justice or to any party requesting the same under any statute	\$0 50
62. For every single search	20
63. For every general search	50
64. Receiving and filing notices of Appeal and the Appeal from any judgment or conviction by one or more Justices where an appeal is given by law to the Court of General Sessions of the Peace	50
65. When the appeal called—on reading the conviction, notice of appeal and recognizance	50
66. For all other services upon the trial of such appeal case; when tried by a Jury, the same charges as hereinbefore specified in other trials.	
67. Issuing process to enforce the order of the Court in appeal case when required by law	1 00
68. For each copy of Schedule of the times and places of holding the Division Courts with the order of Sessions and forwarding the same to each Division Court Clerk....	50
69. Drawing bill of costs, including taxation and filing the same where necessary to be made and filed, as in cases of assault, nuisances or the like, and in appeals, (<i>to be paid by the party</i>)	50
70. For every certificate required of proof of a deed, (<i>to be paid by the party applying for the same</i>).....	1 00
71. Receiving and filing affidavit of bastardy, (<i>see Rev. Stat. c. 169, s. 3</i>) (<i>to be paid by the party producing it</i>)....	25
72. Receiving and filing each tender for any public work, or supply, or printing, or other service	25
73. Making out a list of the several tenders on each occasion, as they are opened, specifying the names, prices, and other particulars, and filing the same, when required to be done by the Justices	50
74. Drawing bonds or agreements for the delivery of articles, or for doing the work for the gaol or other county purposes, and attending execution, when required by the Justices	1 00
75. Receiving and filing accounts and demands, preferred against the county, numbering them, and submitting them for audit, and making out the cheques	4 00
76. Making out and delivering lists of orders on the treasurer, made at each audit	2 00
77. For every report or return required by statute, or by the Government, where no remuneration has been provided by this table or by statute	1 00
78. Making out and transmitting a return to the Government of Justices and Coroners who have taken the oaths, when required to be done, for each return	1 00
79. Swearing each party to an affidavit, where no charge is elsewhere provided for it (<i>to be paid out of the county funds, or by the party for whom the affidavit is sworn, according to the nature of the case</i>).....	20
80. Drawing certificate of approval by the Justices in Sessions, of sureties tendered by the Sheriff, (<i>to be paid by Sheriff</i>)	50
81. Administering oaths to any public officer, when authorized so to do, (<i>to be paid by the officer</i>)	25
82. For distributing the Statutes to the Justices and county officers, or others, when directed by Statute or the Government so to do, and taking receipts therefor; from each Justice or officer	10
83. For accounting to the County Member for the copies of Statutes not called for by the Justices and county	

- officers, and delivering the same to him, wherever such duty is required by Statute, or by the Government, and no other fee allowed 1 00
84. For receiving and filing Voters' Lists for an entire municipality under *The Ontario Voters' Lists Act*, ss. 21 and 22 each list 25
85. For filing each list, return, or other paper, where no charge is specially provided for, except accounts and claims against the county, and papers connected with matters to be charged against private individuals, (*to be paid out of the county funds, or by the party for whom the service is rendered, according to the nature of the case*) 08
- (a) When the offices of the Clerk of the Peace and Crown Attorney are held by the same person, and there is a similar or the same fee provided for the same service to each officer, only one fee is to be charged or allowed.
- (b) Items numbered from 1 to 67 of the foregoing tariff shall only apply to proceedings in the Courts of General Sessions of the Peace, and shall not supersede any existing Tariff of Fees for services rendered by the Clerk of the Peace out of Sessions.

For services in County or District Court Judge's Criminal Court.

86. Attending and service in Court, and making all necessary entries; for each prisoner brought before the Judge, and not consenting to be tried—in all \$0 50
87. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction; for each prisoner 2 00
88. Preparing Judge's warrant to bring up the body of prisoner, and delivering the same to Sheriff—for each prisoner 50
89. Issuing writ of summons to witness when necessary..... 40
90. Copy of Summons, each 20
91. Warrant of remand, when issued and delivered to Sheriff 50
92. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same..... (*the same fees as allowed for like services at the General Sessions of the Peace*).

R.S.O. 1897, c. 101, Sched. "Clerks of the Peace."
Tariff approved by the Judges, 5th January, 1887.

CONSTABLES.

1. Arrest of each individual upon a warrant \$1 50
2. Serving summons or subpoena 25
3. Mileage to serve summons, subpoena or warrant..... 13
4. Mileage when service cannot be effected, upon proof of due diligence 13
5. Mileage taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance 10
6. Returning with prisoner after arrest—conveyance or railway fare for prisoner. Only reasonable disbursements to be allowed, and public conveyance to be used when practicable 13
7. Attending Justices on summary trials, or on examination of prisoners charged with crime, for each day necessarily employed in one or more cases 1 50
8. Attending sittings of High Court or General Sessions, each day 2 00

9. Mileage travelling to attend High Court, General Sessions, or before Justices, (<i>when public conveyance can be taken, only reasonable disbursements to be allowed</i>)	10
10. Summoning jury for coroner's inquest, including attending at inquest, and all services in respect thereof, if held on same day as jury summoned	3 00
11. Attending each adjournment thereof	1 50
12. Serving, summons or subpœna to attend before coroner, (subject to No. 10)	25
13. Mileage serving same	13
14. Exhuming body under coroner's warrant	4 00
15. Reburying same	2 00
16. Serving distress warrant, and returning same	1 50
17. Advertising under distress warrant	1 00
18. Travelling to make distress, or to search for goods to make distress, when no goods are found	13
19. Appraisements, whether by one appraiser or more..... <i>two cents in the dollar on the value of the goods.</i>	
20. Catalogue, sale and commission, and delivery of goods.. <i>five cents in the dollar on the net produce of the goods.</i>	
21. Executing search warrant	1 50
22. Serving notices on constables, when personally served..	50

R.S.O. 1897, c. 101, Sched. "Constables."

CRIERS.

1. Making proclamation for opening or adjourning the High Court, General Sessions, County Court, and County Court Judge's Criminal Court	\$0 25
2. Making every other proclamation	25
3. Calling and swearing grand jury	50
4. Calling and swearing each petit jury	50
5. Calling and swearing each witness or constable	10
6. Attending High Court, General Sessions, County Court, and County or District Court Judge's Criminal Court, <i>per diem</i>	2 00

3 Edw. VII., c. 12, s. 16.

CROWN ATTORNEY AT GENERAL SESSIONS.

In all criminal cases tried at the Courts of General Sessions of the Peace, in which no costs have been ordered to be paid, or, if ordered to be paid, cannot be made of the defendant, the Crown Attorney shall be entitled to receive for the services rendered by him in such case, the following fees to be paid upon the certificate of the Chairman, and to be taken in lieu of, and not in addition to, the fees which have been heretofore payable for services rendered in such cases, viz.:

1. For receiving and examining all informations, depositions, documents, and papers connected with a criminal charge	\$2 00
2. For preparing draft and engrossed copy of every indictment, or charge	2 00
3. For all business (except items 1 and 2 <i>supra</i> , and the following) in conducting the prosecution to judgment, as well before as after trial	10 00
4. For every copy of subpœna	20
5. For every other service not specified above, and for reports on cases of unusual and important character, a	

quantum

quantum meruit to be determined by the Attorney-General, on a consideration of the particular circumstances.

(a).—Where a number of charges are pending against the same person, and a conviction has been obtained on one or more indictments, fees, and costs on the further proceedings upon the other charges, are not to be made or allowed on taxation, unless in cases where the Chairman would, in the event of additional convictions, impose a heavier sentence, or unless there are special circumstances, which, in the opinion of the Chairman, render it expedient that the other cases, or some of them, should be proceeded with and tried.

(b).—In cases of indictment for the obstruction, or the non-repair of a highway or bridge, or of indictment for nuisance (where there is a *bona fide* dispute as to boundary, or title, or claim of right, and where no present public inconvenience is being suffered from what is complained of), the Crown Attorney shall not be entitled to charge costs to the public, without the special sanction of the Attorney-General, but will collect his fees and costs from the parties only.

(c).—When the offices of Crown Attorney and Clerk of the Peace are held by the same individual, and a similar, or the same, fee is provided for the same service to each officer, only one fee is to be charged or allowed.

Tariff approved by the Judges, 5th January, 1887.

SCHEDULE B.

Province of Ontario,

Dr. to A. B.,

Constable of the County of

Date of Service.	Number of Item.	Nature of Service and Particulars of Mileage.	Amount Claimed by Official	Deferred for further inquiry.	Disallowed.	Amount payable by the government.
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In the case of a constable or coroner, the Justice of the Peace shall add the following certificate:

I hereby certify that the above services were duly performed by Constable _____ under my directions, and that the above named prisoner was committed by me for trial at the High Court (or as the case may be).

F. G.,

Justice of the Peace for the above County.
(*Affidavit on back.*)

County of

To Wit:

I _____ of _____
in the county of _____ make oath and
say:—

(1) That the within account of services performed by me is true in every particular.

(2) That I have not been paid any part of the charges, nor has any other person to my knowledge received payment for me or on

my

my behalf, nor has any other person to my knowledge rendered an account for the same services.

(3) That to perform such services I necessarily travelled the distances in the account mentioned.*

Sworn before me at _____ in the County of
this _____ day of _____ A.D. 19 _____

[*Where special explanations are given, add: (4) "and that the explanatory statement written upon the said account are true in every particular."]

Endorsement on back of Account.		January, 19 _____	County of Grey.	Account of A. B. _____	Constable.
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R.S.O. 1897, c. 103, Sched.

SCHEDULE C.

SHERIFFS.

1. Attending the High Court. (*See Tariff in Schedule A, Sheriffs, item 1.*)

2. Attending the General Sessions. (*Tariff, item 2.*)

3. Summoning each Grand Jury for the High Court or General Sessions. (*Tariff, item 3.*)

4. Summoning each Petit Jury for the High Court or General Sessions. (*Tariff, item 4.*)

5. For every Prisoner discharged from Gaol, having been committed by Warrant for trial at the High Court or General Sessions. (*Tariff, item 5.*)

6. For the discharge from Gaol of every Prisoner convicted by a Police Magistrate under Part XV. of *The Criminal Code*. (*Tariff, item 6.*)

7. Bringing up each Prisoner for arraignment, trial and sentence, whether convicted or acquitted. (*Tariff, item 7.*)

8. For arraignment, trial and sentence in all for each Prisoner, whether convicted or acquitted, who has been out on bail. (*Tariff, item 8.*)

9. Drawing Calendar of Prisoners for trial at the High Court, including copies. (*Tariff, item 9.*)

10. Drawing Calendar of Prisoners for trial at the General Sessions, including copies. (*Tariff, item 18.*)

11. Advertising the holding of the High Court or General Sessions. (*Tariff, items 10 and 11.*)

12. Every Annual or General Return, required by law, or by the Government, respecting the Gaol or the Prisoners therein. (*Tariff, item 12.*)

13. Every other Return made to the Government or the Legislature or to the Sessions, required by statute or by order of the Court. (*Tariff, items 13, 14 and 15.*)

14. Every Return to the Inspector of Legal Offices. (*Tariff, item 17.*)

15. Returning Precepts to the High Court or General Sessions. (*Tariff, item 19.*)
16. Conveying Prisoners to the Penitentiary or Reformatory, or to another County or District and disbursements. (*Tariff, item 20.*)
17. Arrest of each individual upon a Warrant (*if payable by the Crown*). (*Tariff, item 21.*)
18. Serving Subpoena upon each person, (*if payable by the Crown*). (*Tariff, item 22.*)
19. Travelling in going to execute Warrant or serve Subpoena, and in returning with Prisoner, (*if payable by the Crown*). (*Tariff, item 23.*)
20. Conveying Prisoners on Attachment, Judge's order or *Habeas Corpus* to another County, and disbursements, (*if payable by the Crown*). (*Tariff, item 24.*)
21. Making Return upon Attachment or Writ of *Habeas Corpus*, (*if payable by the Crown*). (*Tariff, item 25.*)
22. Levying Fines or Issues on Recognizances estreated, and mileage. (*Tariff, item 26.*)
23. Disbursements in carrying into execution the sentence of the Court in capital cases. (*Tariff, item 27.*)
24. Attending and superintending the Execution in such cases. (*Tariff, item 28.*)
25. Summoning each Constable to attend the High Court or General Sessions. (*Tariff, item 29.*)
26. Keeping a Record of Jurors who have served at each Court. (*Tariff, item 30.*)
27. All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary or Reformatory, or to any other County or District or elsewhere, or for other purposes in the discharge of the duties of his office (when not otherwise provided for), to be allowed by the Board of Audit. (*Tariff, item 31.*)

For services in the County Judge's Criminal Court.

28. Notification to Judge. (*Tariff, item 34.*)
29. Bringing up prisoners before Judge to elect as to mode of trial, including attendance at Court. (*Tariff, item 35.*)
30. Bringing up prisoner for arraignment on trial and for sentence, including attendance at Court. (*Tariff, item 36.*)
31. Serving subpoenas, arrest under warrant, travel to serve or execute process, and conveying prisoners to Penitentiary or Reformatory, (*where payable by the Crown*). (*Tariff, item 37.*)

For services in connection with offenders sentenced, or liable to be removed to the Central Prison.

32. Making special return of prisoners sentenced to Central Prison, and of such persons eligible for removal to Central Prison, as the Inspector may direct. (*Tariff, item 38.*)
33. Certified copy of sentence. (*Tariff, item 39.*)
34. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty. (*Tariff, item 40.*)
35. For general supervision over the gaol and prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage, per quarter. (*Tariff, item 42.*)
36. For every prisoner discharged from gaol other than prisoners committed by warrant for trial at the Assizes or General Sessions. (*Tariff, item 43.*)
37. For services performed under section 1059 of *The Criminal Code*. (*Tariff, item 44.*)
38. For each day's attendance at an adjournment of the County or District Court Judge's Criminal Court. (*Tariff, item 45.*)

R.S.O. 1897, c. 104, Sched. "Sheriff."

CORONERS

CORONERS.

1. Precept to summon Jury. (*Tariff, item 1.*)
2. Empanelling a Jury. (*Tariff, item 2.*)
3. Summons for Witness. (*Tariff, item 3.*)
8. Every Warrant. (*Tariff, item 8.*)
4. Information or Examination of each Witness. (*Tariff, item 4.*)
5. Taking every Recognizance. (*Tariff, item 5.*)
6. Necessary travel to take an Inquest. (*Tariff, item 6.*)
7. Taking Inquisition and making Return. (*Tariff, item 7.*)

CLERKS OF THE PEACE.

1. Drawing precept to summon the Grand and Petit Jury, attending Judge to sign same, and transmitting to the Sheriff. (*See Tariff, Clerks of the Peace, item 1.*)
2. Attending each General Sessions. (*Tariff, item 2.*)
3. Making up Record of each General Sessions. (*Tariff, item 4.*)
4. Notice of every appointment of a Constable under *The Constables Act*, or other officer appointed by the Justices in Session, and notice of any order made by the General Sessions when required to be notified to any person or party. (*Tariff, items 5 and 7.*)
5. Issuing Subpoena, (*if payable by the Crown*). (*Tariff, item 9.*)
6. Issuing Bench warrant. (*Tariff, item 11.*)
7. Every Recognizance of the Peace for good behaviour. (*Tariff, item 12.*)
8. Drawing out and taking each Recognizance to appear, either of prosecutor, defendant or witness, (*if payable by the Crown*). (*Tariff, item 13.*)
9. Calling parties on their Recognizance and recording their non-appearance, (*if payable by the Crown*). (*Tariff, item 14.*)
10. Drawing Order of the Judge to estreat and put in process. (*Tariff, item 16.*)
11. Entering any Order of the Court of General Sessions or of the Judge of the County or District to remit an estreat and recording an entry of the same, (*if payable by the Crown*). (*Tariff, item 17.*)
12. Making out lists of forfeited Recognizances and Fines to submit to the presiding Judge after each General Sessions in order that they may be estreated. (*Tariff, item 18.*)
13. Entering and extracting upon a Roll, in duplicate, the Fines, Issues, Amercements and forfeited Recognizances recorded in each General Sessions, making oath to the same, and transmitting it to the Sheriff. (*Tariff, item 19.*)
14. Making out and delivering to the Sheriff the Writ of *fiat facias* and *capias* thereon. (*Tariff, item 20.*)
15. Making out and certifying copy of Roll and Return of Sheriff, and transmitting it to Provincial Treasurer. (*Tariff, item 21.*)
16. Copies of Depositions or Examinations furnished to Prisoners, Defendants, or their Counsel, when required by the party or his Counsel, (*if payable by the Crown*). (*Tariff, item 22.*)
17. Receiving and filing each Presentment of the Grand Jury. (*Tariff, item 24.*)
18. Arraigning each Prisoner or Defendant indicted, and recording Plea, (*if payable by the Crown*). (*Tariff, items 26 and 27.*)
19. Empanelling and swearing the Jury in every case, whether criminal or otherwise, where by law a trial by Jury is to be had at the General Sessions, (*if payable by the Crown*). (*Tariff, item 29.*)
20. Swearing each Witness upon any trial by Jury, or to go before the Grand Jury, (*if payable by the Crown*). (*Tariff, items 30 and 33.*)
21. Charging the Jury with the Prisoner or Defendant, upon each indictment, (*if payable by the Crown*). (*Tariff, item 31.*)
22. Filing each Exhibit upon a trial, (*if payable by the Crown*). (*Tariff, item 32.*)
23. Receiving and Recording each verdict of a Petit Jury, in any case of trial by Jury, (*if payable by the Crown*). (*Tariff, item 34.*)

24. Recording each Judgment or Sentence of the Court, upon a verdict or confession, (*if payable by the Crown*). (*Tariff, item 35.*)
25. Making out and delivering to the Sheriff a Calendar of the Sentences at each Court. (*Tariff, item 36.*)
26. Certified copy of Sentences sent with the Prisoners to the Penitentiary, or Reformatory, after each General Sessions. (*Tariff, item 37.*)
27. Making up Record of Conviction or Acquittal, in any case where necessary, (*if payable by the Crown*). (*Tariff, item 38.*)
28. Discharging any Prisoner by proclamation. (*Tariff, item 39.*)
29. Furnishing to Sheriff and Coroners revised lists of constables, whenever ordered to be done by the Justices in General Sessions. (*Tariff, item 41.*)
30. Drawing Orders of General Sessions for altering the limits of Division Courts. (*Tariff, item 45.*)
31. Making out and transmitting copies of such Orders to the Government. (*Tariff, item 46.*)
32. Making out and transmitting copies of such Orders to each Division Court affected by the alteration. (*Tariff, item 47.*)
33. Making up Books of Orders of General Sessions declaring the limits of the Division Courts, and entering the times and places of holding the Courts. (*Tariff, item 48.*)
34. Making out and transmitting copies (*with letter*) to the Clerk of each Division Court, of the Divisions made by the General Sessions. (*Tariff, item 49.*)
35. Making out and transmitting a copy thereof to the Government. (*Tariff, item 50.*)
36. For each Copy of Schedule of Division Courts, with the Order of General Sessions for publication. (*Tariff, item 68.*)
37. Swearing each party to an Affidavit, when no charge is elsewhere provided for it, (*if payable by the Crown*). (*Tariff, item 79.*)

For services in County, or District Court Judge's Criminal Court.

38. Attending and service in Court, and making all necessary entries for each prisoner brought before the Judge, and not consenting to be tried. (*Tariff, item 86.*)
39. For attendance in Court and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction, for each prisoner. (*Tariff, item 87.*)
40. Preparing Judge's warrant to bring up the body of prisoner, and delivering same to Sheriff. (*Tariff, item 88.*)
41. Issuing Writ of Summons to witness. (*Tariff, item 89.*)
42. Copy of Summons. (*Tariff, item 90.*)
43. Warrant of remand, when issued and delivered to Sheriff. (*Tariff, item 91.*)
44. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same. (*Tariff, item 92.*)

R.S.O. 1897, c. 104, Sched. "Clerks of the Peace";
62 V. (2), c. 11, s. 25.

CONSTABLES.

1. Arrest of each individual upon a Warrant, (*if payable by the Crown*). (*Tariff, Constables, item 1.*)
2. Serving Summons or Subpœna, (*if payable by the Crown*). (*Tariff, item 2.*)
3. Mileage, (*if payable by the Crown*). (*Tariff, item 3.*)
4. Mileage in going to serve Summons or Warrant when the service has not been effected; the Board of Audit being satisfied that due diligence was used, (*if payable by the Crown*). (*Tariff, item 4.*)
5. Three-quarters of the fee payable to constables attending High Court or General Sessions. (*See Tariff, item 8, and sec. 5.*)

6. Mileage travelling to attend High Court, General Sessions or before Justices. (*Tariff, item 9.*)

7. Attending any Justice on summary trials or on the examination of Prisoners charged with any crime. (*Tariff, item 7.*)

8. Taking Prisoners to Gaol, and disbursements necessarily expended in their conveyance. (*Tariff, item 5.*)

9. Returning with Prisoner after arrest, conveyance or railway fare for Prisoner. Only reasonable disbursements to be allowed, and public conveyance to be used when practicable. (*Tariff, item 6.*)

10. Summoning Jury for Inquest and services at same. (*Tariff, item 10.*)

11. Attending Inquest for each day other than the first. (*Tariff, item 11.*)

12. Serving Summons or Subpœna to attend before Coroner. (*Tariff, item 12.*)

13. Mileage serving same. (*Tariff, item 13.*)

14. Serving notice of appointment of Constables, when personally served. (*Tariff, item 22.*)

R.S.O. 1897, c. 104, Sched. "Constables."

CRIERS.

1. Making Proclamation for opening or adjourning the sittings of the High Court and General Sessions. (*Tariff, Criers, item 1.*)

2. Making every other Proclamation. (*Tariff, item 2.*)

3. Calling and Swearing Grand Jury. (*Tariff, item 3.*)

4. Calling and Swearing every Petit Jury. (*Tariff, item 4.*)

5. Calling and Swearing every Witness or Constable. (*Tariff, item 5.*)

6. Attending High Court and General Sessions. (*Tariff, item 6.*)

R.S.O. 1897, c. 104, Sched. "Criers."

OTHER MATTERS.

1. The maintenance of Prisoners confined upon criminal charges—

This item shall include the maintenance of prisoners convicted by police magistrates, under Part XV. of *The Criminal Code*, for indictable offences, and confined upon such conviction in any common gaol within the Province.

2. A proportion of the Salaries of the Gaoler, Matron, and Gaol Surgeon of each County Gaol, and of the payment of Turnkeys—

3. Medicines, Fuel and other similar necessities for the Gaol, and the Prisoners confined on criminal charges—

4. Disbursements in transporting Prisoners to the Penitentiary, or Reformatory, and for carrying other sentences of the Courts into effect—

5. Fee to Gaol Surgeon for the examination of each prisoner eligible for removal or sentenced to Central Prison or to a Reformatory.

R.S.O. 1897, c. 104, Sched. "Other Matters."

CHAPTER 42.

An Act to provide for the Payment of Witnesses for the Crown.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

CASES IN WHICH JUDGE MAY ORDER CROWN WITNESSES TO BE PAID, ss. 3, 4.

CERTIFICATE REQUIRED TO OBTAIN ORDER, s. 5.

FORM OF ORDER, ETC., s. 6.

PAYMENT BY MUNICIPALITIES, ss. 7, 8.

REIMBURSEMENT BY GOVERNMENT IN PART, s. 9.

WITNESSES FROM UNORGANIZED DISTRICTS, ss. 10, 11.

WITNESS FEES WHERE RECOVERED FROM PARTIES, s. 12.

FEE TO CROWN ATTORNEY FOR CERTIFICATE, s. 13.

WITNESS FEES ON CLAIMS BY CROWN, s. 14.

COMPENSATION OF WITNESS NOT PAYABLE BEFORE DETERMINATION OF CASE, s. 15.

REPEAL, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Crown Witnesses Act.*"

Interpre-
tation. 2. In this Act,

"Court." "Court," shall mean and include the High Court, the Court of General Sessions of the Peace, the County or District Court Judge's Criminal Court, and Courts for the summary trial of indictable offences under *The Criminal*

R.S.C. c. 146. *Code.* R.S.O. 1897, c. 105, s. 1.

In certain cases Crown witnesses may be compensated for attendance on prosecution or trial.

3. The Judge who holds the Court before which a prosecution or trial for an indictable offence takes place may grant to any person who attends on recognizance or subpena, or on the request of the Crown Counsel, to give evidence, or who gives evidence, on the part of the Crown, an order for payment of such sum as to the Judge seems reasonable and sufficient to compensate the witness for his costs and charges in attending as such witness; but in no case other than that of an expert witness shall such sum exceed

the

the amount payable in civil cases in the High Court. R.S.O. 1897, c. 105, s. 3; 3 Edw. VII. c. 7, s. 24.

4. Where a bill of indictment has not been preferred, or where the trial has not been proceeded with, the Judge may make a similar order in favour of any person who, in his opinion, *bona fide* attended the Court in obedience to a recognition or subpœna. R.S.O. 1897, c. 105, s. 4.

Or where no indictment preferred or trial had.

5.—(1) The order shall not be made except on a certificate by the Counsel for the Crown, and by the Crown Attorney unless the Crown Attorney acts as Counsel for the Crown; and the certificate shall contain the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses, and shall be to the like effect; but the Judge may require further evidence, and may grant or refuse the order.

Certificate whereon order to be made.

Discretion as to order.

(2) If some other person is acting for the Crown Attorney, the certificate may be given by him. R.S.O. 1897, c. 105, s. 5.

Certificate in absence of Crown Attorney.

6. The order shall be forthwith made out by the proper officer of the Court, and shall be directed to the treasurer of the county in which the offence was committed or was supposed to have been committed; or, if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R.S.O. 1897, c. 105, s. 7.

Order, how made out and directed.

7. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named, the amount stated in the certificate, on his signing a receipt therefor in person. R.S.O. 1897, c. 105, s. 8.

Payment by the treasurer of county where trial takes place.

8. Where the trial takes place in a county other than the county in which the offence was committed, the treasurer of the county in which the trial takes place, if applied to by the witness, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R.S.O. 1897, c. 105, s. 9.

Payment by a treasurer on whom order is not made.

9. One-third of the amount paid to witnesses under this Act shall be repaid to the municipality out of the Consolidated Revenue Fund, except as is hereinafter mentioned. R.S.O. 1897, c. 105, s. 10.

One-third to be repaid to municipality.

Expenses of witnesses in cases sent from unorganized districts, for trial in a county.

10. In respect of witnesses in cases sent from the unorganized districts for trial in any county, the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R.S.O. 1897, c. 105, s. 11.

Witness in cases tried in unorganized districts.

11. The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending a sitting of any Court held in any unorganized district, upon the prosecution or trial of an indictable offence, and shall be so paid under such regulations as the Lieutenant-Governor in Council may prescribe. R.S.O. 1897, c. 105, s. 12.

On recovery from prosecutor or defendant, the municipality to be repaid.

12. Where witness fees paid under the provisions of this Act are, by virtue of the judgment of the Court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R.S.O. 1897, c. 105, s. 13.

Fee to Crown Attorney in respect of certificate.

13.—(1) The Crown Attorney shall be entitled to receive from the corporation of the county in which the Court is held a fee of \$1, in respect of every prosecution or trial on which a witness is examined, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the certificate, or the inquiry whether a certificate should be granted. R.S.O. 1897, c. 105, s. 14.

One-third of Crown Attorney's fee to be repaid to municipality.

(2) One-third of such fee shall be repaid to the corporation out of the Consolidated Revenue Fund. R.S.O. 1897, c. 105, s. 15.

Witness fees payable on prosecution of claims, etc., by His Majesty.

14. In the case of an information, action, or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of His Majesty against any person for the use of the Province, or for the recovery of the possession of any lands, deeds or personal property whereunto His Majesty claims to be entitled for the use of the Province, the witnesses shall be entitled to be paid the like witness fees as are payable in actions between subject and subject. R.S.O. 1897, c. 105, s. 16.

Compensation not payable before determination of the case.

15. Nothing herein shall entitle a witness to require payment of any sum previous to the determination by adjournment or otherwise at the Court of the prosecution or trial at which he attends as a witness. R.S.O. 1897, c. 105, s. 17.

Repeal.

16. Chapter 105 of the Revised Statutes, 1897, and all amendments thereto are repealed.

CHAPTER 43.

An Act respecting Estreats.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.	SALE OF LAND FOR PAYMENT OF FINES, s. 9.
FINES AT HIGH COURT AND SESSIONS:	CONDITION OF RELEASE OF PARTY IN CUSTODY, s. 10.
Entry of fines on roll, s. 2.	DISCHARGE OF FORFEITED RECOGNIZANCES BY COURT, s. 11.
Writ to Sheriff to levy, s. 3.	RETURNS BY SHERIFF AND CLERK OF PEACE, ss. 12, 13.
Levy by Sheriff, s. 4.	PAYMENT TO PROVINCIAL TREASURER, s. 14.
ESTREAT OF RECOGNIZANCES TO COUNTY COURT JUDGES, CRIMINAL COURT AND MAGISTRATES, ss. 5, 6, 7.	RULES OF COURT, s. 15.
FORBEARANCE OF ESTREAT OR OF LEVY, s. 8.	REPEAL, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Estreats Act.*"

Short title.

2.—(1) Unless otherwise provided, all fines, issues, amerciaments and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the High Court or a Court of General Sessions of the Peace, shall, within twenty-one days from the adjournment of such Court, be entered and extracted on a roll, by the Deputy Clerk of the Crown, or Clerk of Assize, or Clerk of the Peace, as the case may be, or by some other person under the direction of a Judge, which roll shall be made in duplicate, and signed by the Clerk or by the Judge. R.S.O. 1897, c. 106, s. 1.

All fines, etc., shall within 21 days from adjournment of Court be entered on a roll.

(2) The Clerk or other person by whom the rolls are prepared shall, at the foot thereof, make affidavit in the following form:

Deputy Clerk of Crown, etc., to make affidavit.

"I, A. B. (*describing his office*), make oath that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, and forfeited recognizances, which were set, imposed, lost or forfeited, at or by the Court therein mentioned, and which in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed

Form.

expressed all such fines as have been paid to or received by me, either in Court or otherwise, without any wilful discharge, omission, misnomer, or defect whatever." A. B.
Sworn, etc.

R.S.O. 1897, c. 106, s. 12.

One copy of roll to be sent to the Central Office of the High Court, Toronto, or Clerk of the Peace, and the other, with an execution, to the Sheriff of the County.

3.—(1) Subject to the provisions of section 8 as soon as the rolls are prepared one shall in the High Court be transmitted by the Clerk or by the Judge to the Central Office of the High Court at Toronto, and in the General Sessions shall remain deposited in the office of the Clerk of the Peace, and in both cases the other with a writ of execution and *capias*, Form A, shall be transmitted to the Sheriff of the county or district in and for which such Court was held.

(2) Where the writ is intended to be executed in any other county or district a certified copy of the roll, with a concurrent writ of execution and *capias*, Form A, shall be transmitted to the Sheriff of such county or district.

(3) A writ, if unexecuted, shall remain in force for three years and no longer, unless renewed in the manner provided in the case of other writs of execution. R.S.O. 1897, c. 106, s. 2; 63 V. c. 17, s. 15 (1).

When new writ may issue.

(4) Where a recognizance is estreated, and has not been discharged or satisfied, the Court or a Judge may order the issue of a new or alias writ of execution and *capias*, notwithstanding that more than three years may have elapsed since the issue of the original writ. 63 V. c. 17, s. 15 (2).

Mode of proceeding to levy fine, etc.

4. The Sheriff shall proceed to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances, on the goods and chattels, lands and tenements of the persons named in the roll, or for taking into custody the bodies of such persons in case sufficient goods and chattels, lands or tenements cannot be found whereof the sums required can be made; and every person so taken shall be lodged in the Common Gaol of the county or district until satisfaction is made or until the Court, upon cause shewn by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R.S.O. 1897, c. 106, s. 3.

Estreat of recognizances to County Court Judges, Criminal Court and Magistrates.

5.—(1) Where a person bound by a recognizance for his appearance (or for whose appearance any other person has become so bound) does not appear at the time and place required or during the time the Judge of the County or District Judges Criminal Court or Police Magistrate or Justice of the Peace has appointed according to the terms of the recognizance the Judge or Police Magistrate or Justice shall within forty-eight hours after such failure to appear

appear cause a record of the recognizance to be drawn up and shall sign the same and return it to the Clerk of the Peace for the County or District with a certificate on the back thereof signed by the Judge, Police Magistrate or Justice stating that the person charged has not complied with the obligation contained in the recognizance.

(2) The Clerk of the Peace shall make a like record of estreat of every such recognizance as in the case of other recognizances forfeited at the Court of General Sessions of the Peace.

(3) The other provisions of this Act shall apply to every such recognizance. *New.*

6. Where a person bound by recognizance for his appearance, (or for whose appearance any other person has become so bound) to prosecute or give evidence in the case of an offence for the commission of which a fine or penalty is imposed which the Province is entitled to receive makes default, the officer of the Court by whom the estreats are made out shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person or his surety was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether by reason of his non-appearance the ends of justice have been defeated or delayed. R.S.O. 1897, c. 106, s. 7.

Estreat of
recognizance,
etc.

7. Every officer before a recognizance is estreated shall lay the list before a Judge of the Court, who shall examine the list and make such order touching the estreating or putting in process the recognizance as appears just; and no officer of the Court shall estreat or put in process a recognizance without the written order of the Judge before whom the list has been laid. R.S.O. 1897, c. 106, s. 8.

Recogniz-
ances, etc.,
not to be
estreated
without
Judge's order.

8.—(1) Except in the cases of persons bound by recognizance for their appearance (or for whose appearance any other person has become so bound) to prosecute or give evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the Court, the Court, on consideration of the cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and with respect to all recognizances estreated and all fines imposed

Court may
forbear
estreating
recognizances
under certain
circumstances.

by

by any Court for the non-attendance of a juror or constable, or of a public officer bound to attend at the Court, if it appears to the satisfaction of the Judge who presided thereat, that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance was owing to circumstances which rendered his absence justifiable, the Judge may make an order directing that the sum forfeited upon the estreated recognizance or the fine imposed shall not be levied. R.S.O. 1897, c. 106, s. 9.

Presiding Judge may direct Sheriff to forbear levying fines, etc., under certain circumstances.

(2) The clerk before sending to the sheriff the roll, with the writ of execution and *capias*, shall submit the same to the Judge for his revision; and the Judge may make a minute on the roll and writ of any forfeited recognizances and fines which he thinks fit to direct not to be levied; and the sheriff shall observe the direction in the minute, and shall accordingly forbear to levy the forfeited recognizance or fine. R.S.O. 1897, c. 106, s. 10.

Mode of proceeding where lands are seized for payment of fines, etc.

9. Where the sheriff takes lands or tenements in execution his duties and the practice and procedure as to the sale shall be the same as in other cases of execution against lands. R.S.O. 1897, c. 106, s. 11.

Conditions upon which a party in custody of the Sheriff may be released.

10. If a person on whose goods and chattels a sheriff is authorized to levy a forfeited recognizance gives security to the sheriff for his appearance in the Court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, then and there to abide the decision of the Court, and also to pay the forfeited recognizance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as may be adjudged and ordered by the Court, such person shall be discharged out of custody; and if he does not appear in pursuance of his undertaking, the Court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound. R.S.O. 1897, c. 106, s. 13.

Court under certain circumstances may discharge forfeited recognizances, etc.

11. The Court into which a writ of execution and *capias* is returnable may inquire into the circumstances of the case, and may order the discharge of the whole of the forfeited recognizance, or sum paid or to be paid in lieu of satisfaction thereof, and may make such order thereon as to the Court appears just; and the order shall be a discharge to the sheriff or to the party, according to the circumstances of the case. R.S.O. 1897, c. 106, s. 14.

12. The sheriff to whom a writ is directed shall with his return state on the back of the roll attached to the writ, what has been done in the execution thereof; and the return shall be filed in the proper office of the Court into which it is made. R.S.O. 1897, c. 106, s. 15.

Manner of
return by
Sheriff, etc.

13. A copy of the roll and return, certified by the Clerk of the Peace, or by one of the Registrars of the High Court, shall be forthwith transmitted to the Treasurer of Ontario, and to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned which have been remitted by order of the Court, in whole or in part, or directed to be forborne under the authority of this Act. R.S.O. 1897, c. 106, s. 16.

Copy of roll
and return to
be sent to
Provincial
Treasurer.

14. The sheriff shall, without delay, pay over all moneys by him collected to the Treasurer of Ontario or other officer or person entitled to receive the same. R.S.O. 1897, c. 106, s. 17.

Sheriff to pay
to Provincial
Treasurer or
person
entitled.

15. The Judges of the High Court authorized by section 124 of *The Judicature Act* to make rules for regulating the practice of the High Court may make rules regulating the practice and procedure for the estreating of recognizances in the High Court or in the Court of General Sessions of the Peace.

Rules to be
made by
Judges of
High Court.
Rev. Stat. c.
51.

16. Chapter 106 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

FORM A.

WRIT OF EXECUTION AND CAPIAS.

Section 3 (1).

EDWARD THE SEVENTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King; Emperor of India, Defender of the Faith, etc.

To the Sheriff of _____, Greeting:

You are hereby commanded to levy of the goods and chattels, lands and tenements of each of the persons mentioned in the roll or extract to this Writ annexed, all and singular the debts and sums of money upon them severally imposed and charged as therein is specified; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said persons respectively, then, and in all such cases, that you take the bodies of such persons and keep them safely in the Gaol of your County (or District), there to abide the judgment of Our High Court, (or Court of General Sessions of the Peace, as the case may be), upon any matter to be shown by them respectively, or otherwise to remain in your custody

as

as aforesaid until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said Court within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, for which you will be held answerable; and what you do in the premises make appear before Us in Our High Court of Justice at Toronto (or at the next Court of General Sessions of the Peace for the county (or district) of, *as the case may be*), immediately after the execution hereof, and have then and there this Writ.

Witness this day
of 19 .

Deputy Clerk of the Crown (or Clerk of the Peace, or as the case may be) for the County of

R.S.O. 1897, c. 106, Sched.

CHAPTER 44.

An Act to provide for the better Government of that part of Ontario situated in the Vicinity of the Falls of Niagara.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.

APPOINTMENT OF POLICE MAGISTRATE, s. 2.

POWERS AND DUTIES, ss. 3-6

DISPOSITION OF FINES, s. 7.

REPEAL, s. 8.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. This Act may be cited as "*The Niagara Falls Magistrate's Act*." Short title.

2. The Lieutenant-Governor in Council may appoint a Appointment of Police Magistrate. Police Magistrate for the City of Niagara Falls, in the County of Welland. R.S.O. 1897, c. 110, s. 1.

3. The Police Magistrate shall be *ex-officio* a Justice of the Peace of and for the County of Lincoln, and of and for the County of Welland; and may exercise within those counties the jurisdiction and authority of two Justices of the Peace in relation to all matters in respect to which the Legislature of Ontario has authority so to enact. R.S.O. 1897, c. 110, s. 2. Powers and duties of Police Magistrate.

4. The Police Magistrate shall, as often as he considers necessary, or, if the Lieutenant-Governor in Council gives a direction in that behalf then as often as the Lieutenant-Governor in Council directs, hold a Police Court in the Village of Fort Erie. R.S.O. 1897, c. 110, s. 3. Police Court at Fort Erie.

5. Subject to the provisions of the next preceding section, the Police Magistrate shall not be bound to entertain any complaint except with reference to offences committed within the limits of the City of Niagara Falls or of the Township of Stamford; and he shall, as far as practicable, give precedence

dence

dence to complaints in which persons residing at a distance are concerned, either as parties or as witnesses, over complaints in which only persons residing in the neighbourhood of the City of Niagara Falls are so concerned. R.S.O. 1897, c. 110, s. 4.

Power of
revocation of
licenses.

6. In addition to any other penalty imposed by any statute or by any by-law of the municipality, as a punishment for any offence, the Police Magistrate shall have authority to order the revocation or the suspension for such period as he may consider just, of any license granted or issued by the municipal officers of the City of Niagara Falls or of the Township of Stamford, or of the Village of Fort Erie, or of the Township of Bertie, to the person convicted. R.S.O. 1897, c. 110, s. 5.

Police Magis-
trate to keep
accounts of
fines, etc.

7.—(1) The Police Magistrate shall keep proper accounts of all fines, penalties and costs imposed in the Police Courts of the City of Niagara Falls and of the Village of Fort Erie; or elsewhere imposed by him.

Disposition of
fines, etc.

Rev. Stat.
c. 245.

(2) Such fines, penalties and costs, other than those arising from prosecutions under *The Liquor License Act*, if the same were imposed in the Police Court at the City of Niagara Falls, shall be paid over by him to the Treasurer of the City of Niagara Falls for the uses of the city, at such periods as such Treasurer and Police Magistrate may agree upon, or in default of agreement at such periods as may be fixed by the City Council; and in other cases shall forthwith, or at such period as the Treasurer of Ontario shall direct, be paid over by the Police Magistrate to the Treasurer, and shall form part of the Consolidated Revenue Fund. 4 Edw. VII., c. 10, s. 26.

Rev. Stat.
c. 245.

(3) All fines from prosecutions under *The Liquor License Act* shall form part of the license fund of the district, to be dealt with as provided by that Act. R.S.O. 1897, c. 110, s. 9 (2).

Repeal.

8. Chapter 110 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

CHAPTER 45.

An Act respecting the application of the Law of
England in certain Matters*Assented to 7th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Property and Civil Rights Act.*" Short title.

2.—(1) In all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the Courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario. The law of England on 15th Oct., 1792, to be the rule of decision.
R.S.O. 1897, c. 111, s. 1.

(2) Nothing in this section shall extend to any of the laws of England respecting the maintenance of the poor.

3. Chapter 111 of the Revised Statutes of Ontario is Repealed.

CHAPTER 46.

An Act to restrain the Accumulation of the Profits
or Produce of Real or Personal Estate,*Assented to 7th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short title. 1. This Act may be cited as "*The Accumulations Act.*"
R.S.O. 1897, c. 332, s. 1.

Certain direc-
tions for
accumulation
to be void.

2.—(1) No person shall, by any deed, surrender, will,
codicil, or otherwise howsoever, settle or dispose of any real
or personal property so that the rents, issues, profits or pro-
duce thereof shall be wholly or partially accumulated for any
longer than one of the following terms, viz.:

(a) For the life of the grantor;

(b) For twenty-one years from the death of the grantor
or testator;

(c) For the period of minority of any person living, or
en ventre sa mere, at the death of the grantor, or
testator;

(d) For the period of minority of any person who,
under the instrument directing the accumulation,
would for the time being, if of full age, be en-
titled to the income, or rents, and profits, directed
to be accumulated.

Imp. Act.
55-56 Vict.,
c. 58.

(2) No accumulation for the purchase of land shall be
directed for any longer period than that mentioned in the
preceding sub-section.

Imp. Act.
39-40 Geo. 3,
c. 98, s. 1.

(3) Where an accumulation is directed otherwise than as
aforesaid, such direction shall be null and void, and the
rents, issues, profits and produce, of such property so directed
to be accumulated, shall, so long as the same shall be directed

to

to be accumulated contrary to the provisions of this Act, go to and be received by such person as would have been entitled thereto, if such accumulation had not been directed. R.S.O. 1897, c. 332, s. 2.

Nothing here-
in to extend
to any provi-
sion for debts,
portions for
children, or
for timber.

Idem. s. 2.

3. Nothing in this Act shall extend to any provision for payment of debts of any grantor, settlor, or devisor, or other person, or to any provision for raising portions for any child of any grantor, settlor, or devisor, or for any child of any person taking any interest under any such conveyance, settlement, or devise, or to any direction touching the produce of timber or wood upon any lands or tenements, but all such provisions and directions shall and may be made and given as if this Act had not passed. R.S.O. 1897, c. 332, s. 3.

When restric-
tions shall
take effect as
to wills made
before the
passing of
this Act.

Idem. s. 4.

4. The restrictions in this Act shall take effect and be in force with respect to wills and testaments made and executed before the 4th day of March, 1837, only in cases where the devisor or testator was living and of sound and disposing mind after the expiration of twelve calendar months from that day. R.S.O. 1897, c. 332, s. 4.

Repeal

5. Chapter 332 of the Revised Statutes 1897 is repealed.

CHAPTER 47.

An Act respecting Powers of Attorney.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Powers of Attorney Act.*"

As to power of attorney provided expressly to be exercised after decease of constituent.

2. Where a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that the same may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing the same, or provides by any form of words that the same shall not be revoked by the death of the person executing the same, such provision shall be valid and effectual, subject to such conditions and restrictions, if any, as may be therein contained. R.S.O. 1897, c. 116, s. 1.

When acts done after the decease, etc., of constituents to be valid.

3. Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, shall, notwithstanding such death or act, be valid as respects every person who is a party to such payment or act, to whom the fact of the death, or of the doing of such act, was not known at the time of such payment or act *bona fide* made or done, and as respects all claiming under such last mentioned person. R.S.O. 1897, c. 116, s. 2.

Repeal.

4. Chapter 116 of the Revised Statutes, 1897, is repealed.

CHAPTER

CHAPTER 48.

An Act respecting the right of Property in Swarms
of Bees.*Assented to 7th March, 1910.*

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Swarms of Bees Act.*" Short title.

2. Bees living in a state of freedom shall be the property of the person discovering them, whether he is or is not the proprietor of the land on which they have established themselves. Bees in a state of freedom to be the property of their discoverer. R.S.O. 1897, c. 117, s. 1.

3. Bees reared and kept in hives shall be private property. Bees reared in hives to be private property. R.S.O. 1897, c. 117, s. 2.

[As to extent of exemption from seizure under execution, see 9 Edw. VII. c. 47, s. 3, cl. g.]

4.—(1) Where a swarm of bees leaves a hive, the owner may reclaim them, so long as he can prove his right of property therein, and shall be entitled to take possession of them at any place on which the swarm settles, even if such place be on the land of another person, but the owner shall notify the proprietor of such land beforehand and compensate him for all damages. Rights of owner in case of bees abandoning their hives.

(2) If a swarm settles in a hive which is already occupied, the owner of such swarm shall lose all right of property therein. Proviso. R.S.O. 1897, c. 117, s. 3.

5. An unpursued swarm which lodges on any property, without settling thereon, may be secured by the first comer, unless the proprietor of the land objects. Unpursued swarms. R.S.O. 1897, c. 117, s. 4.

Property where
owner declines
to follow his
bees.

6. If the owner of a swarm declines to follow the swarm, and another person undertakes the pursuit, such other person shall be substituted in the rights of the owner, and every swarm which is not followed shall become the property of the proprietor of the land on which it settles, without regard to the place from which it has come. R.S.O. 1897, c. 117, s. 5.

Repeal.

7. Chapter 117 of the Revised Statutes, 1897, is repealed.

CHAPTER 49.

An Act respecting the Rights of Aliens in relation to Real Property.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Aliens' Real Property Act*." Short title.

2. On and from the 23rd day of November, 1849, every alien shall be deemed to have had, and shall hereafter have, the same capacity to take by gift, conveyance, descent, devise, or otherwise, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in Ontario, as a natural born or a naturalized subject of His Majesty. Aliens to have the same powers as to real estate as subjects of His Majesty.
R.S.O. 1897, c. 118, s. 1.

3. The real estate in Ontario of an alien dying intestate shall descend and be transmitted as if the same had been the real estate of a natural born or naturalized subject of His Majesty. Descent of real estate of aliens.
R.S.O. 1897, c. 118, s. 2.

4. Nothing herein shall alter, impair or affect any right or title legally vested in or acquired by any person before the 23rd day of November, 1849. Proviso as to rights before 23rd November, 1849.
R.S.O. 1897, c. 118, s. 3.

5. Chapter 118 of the Revised Statutes, 1897, is repealed. Repeal.

CHAPTER 50.

An Act respecting Petty Trespasses.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short Title

1. This Act may be cited as "*The Petty Trespass Act.*"

Penalty for trespass.

2. Any person who unlawfully enters into, comes upon, or passes through or in any way trespasses upon any land, the property of another person, which is wholly enclosed, or is a garden or lawn, shall incur a penalty of not less than \$1 nor more than \$10, whether any damage has or has not been occasioned thereby, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 120, s. 1, *part*; 2 Edw. VII., c. 12, s. 17.

10 Edw. VII.
c. 37.

Trespasser may be arrested without warrant.

3. Any person found committing such a trespass, may be apprehended, without warrant, by any peace officer, or by the owner of the land on which it is committed, or the servant of, or any person authorized by such owner, and be forthwith taken before the nearest Justice of the Peace, to be dealt with according to law. R.S.O. 1897, c. 120, s. 2.

Act not to affect any case involving title to land.

4. Nothing in this Act shall authorize any Justice of the Peace to hear and determine any case of trespass in which the title to land, or to any interest therein, shall be called in question or affected; but every such case shall be dealt with according to law in the same manner as if this Act had not been passed. R.S.O. 1897, c. 120, s. 4.

Act not to affect persons claiming a light.

5. Nothing in sections 2 and 3 shall extend to any case where the person trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any case within section 539 of *The Criminal Code*. R.S.O. 1897, c. 120, s. 1 *part*; 2 Edw. VII., c. 12, s. 17.

R.S.C., c. 146.

Repeal.

6. Chapter 120 of The Revised Statutes, 1897, and all amendments thereto are repealed.

CHAPTER

CHAPTER 51.

An Act respecting Mortgages of Real Estate.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	RIGHT OF MORTGAGEE TO DIS-
INTERPRETATION, s. 2.	TRAIN LIMITED, ss. 12, 13.
PART I., ss. 3-17.	PAYMENT AFTER DEFAULT WITH-
RIGHTS AND OBLIGATIONS	OUT NOTICE, s. 14-17.
OF MORTGAGORS AND	PART II., ss. 18-26.
MORTGAGEES.	STATUTORY POWERS.
OBLIGATION TO TRANSFER MORT-	POWER OF SALE AND POWER TO
GAGE, s. 3.	INSURE IMPLIED, s. 18.
INSPECTION OF TITLE DEEDS, s. 4.	SALES UNDER STATUTORY POWER,
APPLICATION OF INSURANCE	ss. 19-25.
MONEY, s. 5.	WHEN MORTGAGE CONTAINS POWER
IMPLIED COVENANTS, ss. 6, 7.	IN SHORT FORM, s. 26.
RELEASE OF EQUITY OF REDEMPTI-	PART III., ss 27-29.
ON WITHOUT MERGER, s. 8.	GENERAL PROVISIONS AS TO
ASSIGNMENT BY EXECUTORS, s. 9.	POWER OF SALE.
RECEIPTS OF MORTGAGEE OR SUR-	RESTRICTION AS TO PROCEEDINGS
VIVOR OF TWO OR MORE MORTGAGEES, ETC., TO BE EFFECTUAL DISCHARGES, s. 10.	ON MORTGAGES, s. 28.
DEFENCE OF PURCHASE FOR VALUE WITHOUT NOTICE, s. 11.	PAYMENT IN TERMS OF NOTICE TO BE ACCEPTED, s. 29.
	COSTS AND TAXATION, s. 29 (3, 4).
	REPEAL, s. 30.
	COMMENCEMENT OF ACT, s. 31.

THIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Mortgages Act.*" Short title.
2. In this Act, Interpretation.
 - (a) "Conveyance" shall include assignment, appointment, lease, settlement, and other assurance and covenant to surrender made by deed on a sale, mortgage, demise or settlement of any property or on any other dealing with or for any property; and "convey" shall have a meaning corresponding with that of conveyance. "Conveyance."
"Convey."
 - (b) "Incumbrance" shall include a mortgage in fee, or for a less estate, a trust for securing money, a lien, and a charge of a portion, annuity or other capital or annual sum; and "incumbrancer" shall have a meaning corresponding with that of incumbrance, and shall include every person entitled to the benefit of an incumbrance, or to require payment or discharge thereof. "Incumbrance."
"Incumbrancer."

(c)

- "Land." (c) "Land" shall include tenements and hereditaments, corporeal or incorporeal, houses and other buildings, and also an undivided share in land.
- "Mortgage." (d) "Mortgage" shall include any charge on any property for securing money or money's worth; "mortgage money" shall mean money or money's worth, secured by a mortgage; "mortgagor" shall include any person deriving title under the original mortgagor, or entitled to redeem a mortgage, according to his estate, interest, or right in the mortgaged property; and "mortgagee" shall include any person deriving title under the original mortgagee. R.S.O. 1897, c. 121, s. 1.
- "Mortgage money."
- "Mortgagor."
- "Mortgagee."

PART I.

RIGHTS AND OBLIGATIONS OF MORTGAGORS AND MORTGAGEES.

Obligation on mortgagee to transfer instead of reconveying.

Imp. Act, 44 and 45 V. c. 41, s. 15.

3.—(1) Notwithstanding any stipulation to the contrary, where a mortgagor is entitled to redeem, he may require the mortgagee, instead of giving a certificate of payment or reconveying, and on the terms on which he would be bound to reconvey, to assign the mortgage debt and convey the mortgage property to any third person, as the mortgagor directs; and the mortgagee shall be bound to assign and convey accordingly.

Imp. Act, 45 and 46 V. c. 39, s. 12.

(2) The right of the mortgagor to require an assignment shall belong to and be capable of being enforced by each incumbrancer, or by the mortgagor, notwithstanding any intermediate incumbrance; but a requisition of an incumbrancer shall prevail over that of the mortgagor, and as between incumbrancers a requisition of a prior incumbrancer shall prevail over that of a subsequent incumbrancer.

(3) This section shall not apply if the mortgagee is or has been in possession. R.S.O. 1897, c. 121, s. 2.

Power for mortgagor to inspect title deeds.

Imp. Act, 44 and 45 V. c. 41, s. 16.

4. Notwithstanding any stipulation to the contrary, a mortgagor, as long as his right to redeem subsists, shall be entitled, at reasonable times, on his request, and at his own cost and on payment of the mortgagee's costs and expenses in that behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee. R.S.O. 1897, c. 121, s. 3.

5.—(1) All money payable to a mortgagor on an insurance of the mortgaged property, including effects, whether affixed to the freehold or not, being or forming part thereof, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

Insurance money.
Imp. Act, s. 23.

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance of the mortgaged property be applied in or towards the discharge of the money due under his mortgage. R.S.O. 1897, c. 121, s. 4.

6. There shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say:—

Covenants to be implied.
Imp. Act, s. 7.

(a) In a conveyance by way of mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants,

On mortgage, by beneficial owner.

- (I) For payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage;
- (II) For good title;
- (III) For right to convey;
- (IV) That, on default, the mortgagee shall have quiet possession of the land; free from all incumbrances;
- (V) That the mortgagor will execute such further assurances of the said lands as may be requisite; and
- (VI) That the mortgagor has done no act to incumber the land mortgaged;

according

according to the forms of covenants for such purposes set forth in Schedule B to *The Short forms of Mortgages Act*, subject to the provisions of that Act.

On mortgage of leaseholds, by beneficial owner.

(b) In a conveyance by way of mortgage of leasehold property, the following further covenants by the person who conveys and is expressed to convey, as beneficial owner, namely,

Validity of lease.

(I) That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid, and effectual lease or grant of the land conveyed, and is in full force, unforfeited, and unsurrendered, and in nowise become void, or voidable, and that all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance; and also

Payment of rent and performance of covenants.

(II) That the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him, to be paid, observed and performed, and will keep the person to whom the conveyance is made and those deriving title under him, indemnified against all actions, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them. R.S.O. 1897, c. 121, s. 5.

Implied covenants in mortgages are joint and several.
Imp. Act, s. 28.

7. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them; and where there are more

more mortgagees than one, the implied covenant, with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums; in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. R.S.O. 1897, c. 121, s. 6.

8.—(1) A mortgagee of freehold or leasehold property, may take and receive from the mortgagor a release of the equity of redemption in such property, or may purchase the same under any judgment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property. R.S.O. 1897, c. 121, s. 8.

Mortgagee of freehold property, etc., may receive a release, etc., without merger of debt.

(2) Where a prior mortgagee so acquires the equity of redemption of the mortgagor, no subsequent mortgagee shall be entitled to foreclose or sell such property without redeeming or selling, subject to the rights of such prior mortgagee, in the same manner as if such prior mortgagee had not acquired the equity of redemption. R.S.O. 1897, c. 121, s. 9.

Where mortgagee acquires equity of redemption, subsequent mortgagee not entitled to foreclose or sell property without redeeming, etc.

(3) This section shall not affect any priority or claim any mortgagee may have under the registry laws. R.S.O. 1897, c. 121, s. 10.

Priority under registry laws not to be affected.

9. Where a person entitled to any freehold land by way of mortgage has died, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land; and such executor or administrator shall have the same power as to any part of the land on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole, or any part of the mortgaged land, without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the persons having the mortgagee's estate. R.S.O. 1897, c. 121, s. 11.

Executors of mortgagee may assign, etc.

(As to Mortgages on Joint Account see *Mercantile Law Amendment Act*, 10 Edw. VII., c. 63, s. 4.)

Receipts of
surviving
mortgagee,
etc., to be
effectual
discharges.

10. The payment in good faith of any money to and the receipt thereof by the survivor or survivors of two or more mortgagees, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the security. R.S.O. 1897, c. 121, s. 14.

Purchaser of
mortgage may
set up defence
of purchase
for value
without
notice.

11. The purchaser in good faith of a mortgage may to the extent of the mortgage, and except as against the mortgagor, set up the defence of purchase for value without notice in the same manner as a purchaser of the mortgaged property might do. R.S.O. 1897, c. 121, s. 33.

Right of
mortgagee to
distrain
limited.

12. The right of a mortgagee to distrain for interest in arrear upon a mortgage made after the 25th day of March, 1886, shall be limited to the goods and chattels of the mortgagor, and to such of them as are not exempt from seizure under execution. R.S.O. 1897, c. 121, s. 15.

Mortgagee's
right of dis-
tress limited
to one year's
interest or
rent.

13.—(1) As against creditors of a mortgagor or person in possession of mortgaged premises under a mortgagor, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage executed after the 23rd day of April, 1887, shall be restricted to one year's arrears of such interest or rent.

(2) This restriction shall not apply unless some one of such creditors shall be an execution creditor, or unless there shall be an assignee for the general benefit of such creditors appointed before lawful sale of the goods and chattels distrained, nor unless the officer executing such writ of execution, or such assignee shall, by notice in writing to be given to the person distraining, or his attorney, bailiff, or agent, before such lawful sale, claims the benefit of such restriction.

(3) When such notice is given, the distrainor shall relinquish to the officer or assignee the goods and chattels so distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs shall not be paid or tendered he shall sell only so much of the goods and chattels distrained as shall be necessary to satisfy one year's arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of them, and pay any residue of moneys, proceeds thereof so distrained, to such officer or assignee.

(4)

(4) An officer executing an execution, or an assignee who pays any money to relieve goods and chattels from distress under this section, shall be entitled to reimburse himself therefor out of the proceeds of the sale thereof. Reimbursement of officer or assignee.

(5) The goods and chattels distrained shall not be sold except after such public notice as is now required to be given by a landlord who sells goods and chattels distrained for rent. Notice of sale. R.S.O. 1897, c. 121, s. 16.

14.—(1) In the case of mortgages made after the 1st day of July, 1888, and before the 12th day of June, 1903, unless it is otherwise expressly provided in the mortgage or otherwise with respect to notice or the payment of interest in lieu of notice, the mortgagor may pay the whole principal money if overdue or any instalment thereof which has become payable according to the terms and conditions of the mortgage without previous notice to the mortgagee and without the payment of any interest in lieu of such notice. Payment of principal after default.

(2) Principal money or any instalment thereof shall not be deemed to be overdue or payable within the meaning of this section where it has become payable only by reason of default in payment of part of the principal or interest. *See* R.S.O. 1897, c. 121, s. 17 (1); 3 Edw. VII. c. 11, s. 2.

15.—(1) Notwithstanding any agreement to the contrary, where default has been made in the payment of any principal money secured by a mortgage of freehold or leasehold property made on or after the 12th day of June, 1903, the mortgagor or person entitled to make such payment, may at any time upon payment of three months' interest on the principal money so in arrear, pay the same, or he may give the mortgagee at least three months' notice, in writing, of his intention to make such payment at a time named in the notice, and in the event of his making such payment on the day so named he shall be entitled to make the same without any further payment of interest except to the date of payment. Mortgagor in default to be entitled to redeem on giving three months' notice, or on paying three months' interest in lieu of notice.

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice he shall thereafter be entitled to make such payment only on paying the principal money so in arrear and interest thereon to the date of payment together with three months' interest in advance.

(3) Nothing in this section shall affect or limit the right of the mortgagee to recover by action or otherwise the principal

cipal money so in arrear after default has been made. 3 Edw. VII. c. 11, s. 1.

Mortgages may be redeemed at expiration of five years from date thereof.

16.—(1) Where any principal money or interest secured by a mortgage of freehold or leasehold property, made after the 1st day of July, 1903, is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then if, at any time after the expiration of such five years, any person liable to pay or entitled to redeem tenders or pays to the person entitled to receive the money the amount due for principal money and interest to the time of such tender or payment, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage.

Rev. Stat. c. 205.

(2) Nothing in this section shall affect the provisions of section 25 of *The Loan Corporations Act*, or shall apply to any mortgage given by a joint stock company or other corporation nor to any debenture issued by any such company or corporation for the payment of which security has been given on freehold or leasehold property. 3 Edw. VII. c. 11, s. 3; see R.S.C. 1906, c. 120, s. 10, *part*.

Paying off mortgage when provision made for a lower rate for punctual payment.

17.—(1) Where in a mortgage falling due after the 20th day of April, 1907, provision is made that if interest is paid promptly it will be accepted at a lower rate than that provided in such mortgage, and interest at such lower rate has been paid according to such condition up to the time when all the principal money has become payable, any person liable to pay or entitled to redeem shall be entitled to pay the principal money and interest on the same at such lower rate at any time after the time for payment of the principal money on giving three months' notice of his intention to make such payment or on paying three months' interest at such lower rate in lieu of notice. 7 Edw. VII. c. 27, s. 1.

Mortgagor failing to pay according to notice.

(2) If the mortgagor, or person entitled to make such payment, fails to make the same at the time mentioned in such notice, he shall thereafter be entitled to make such payment only on paying the principal and interest at the lower rate to the date of payment, together with three months' interest in advance. 7 Edw. VII. c. 27, s. 2.

PART II.

STATUTORY POWERS.

18. Where any principal money is secured by mortgage of land executed after the 11th day of March, 1879, the mortgagee shall at any time after the expiration of four months from the time when the principal money shall have become payable, according to the terms of the mortgage, or after any interest on the principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which, by the terms of the mortgage, ought to be paid by the mortgagor, have the following powers, to the like extent as if they had been in terms conferred by the mortgage, but not further, namely:

Powers incident to mortgages after default for certain time.

(a) A power to sell, or concur with any other person in selling, the whole or any part of the mortgaged property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to buy in at an auction and to rescind or vary contracts for sale, and to re-sell the land, from time to time, in like manner without being answerable for any loss occasioned thereby. Power of sale.

(b) A power to insure and keep insured against loss or damage by fire any building or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the mortgage money and with the same priority and with interest at the same rate as the mortgage money. R.S.O. 1897, c. 121, s. 18; 44-45 Vict. (Imp.), c. 41, s. 19 (2). Power to insure.

19. A receipt for purchase money given by the person exercising the power of sale by the next preceding section conferred, shall be a sufficient discharge to the purchaser, who shall not be bound to see to the application of the purchase money. R.S.O. 1897, c. 121, s. 19. Receipts for purchase money sufficient discharges.

20.—(1) No sale under the power conferred by section 18 shall be made until after two months' notice in writing, Form 1, has been given to every subsequent incumbrancer, and to the mortgagor, either personally or at his usual or last place of residence in Ontario. Notice before sale.

(2) The notice may be given at any time after any default in making a payment provided for by the mortgage.

(3) In case of the death of the person entitled subject to the mortgage, and of his interest passing to an infant, the notice shall be given to his personal representative as well as to the infant.

(4) The notice to the infant shall be served upon his guardian, and if he has no guardian upon the Official Guardian and in every case upon the infant himself, if over the age of twelve years. R.S.O. 1897, c. 121, s. 20.

Improper sale
not to defeat
title of pur-
chaser.

21. Where a conveyance has been made in professed exercise of the power of sale conferred by section 18, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that such power had been improperly or irregularly exercised, or that such notice has not been given; but any person damnified by an unauthorized, improper, or irregular exercise of the power, shall have his remedy against the person exercising the power. R.S.O. 1897, c. 121, s. 21.

44 and 45
Vic., Imp., c.
41, s. 21 (2).

(As to registration of notice, see *Registry Act*, 10 Edw. VII., c. 60, s. 58).

Application of
purchase
money.

22. The money arising from the sale shall be applied by the person receiving the same as follows:

Firstly, in payment of all the expenses incident to the sale or incurred in any attempted sale;

Secondly, in discharge of all interest and costs then due in respect of the mortgage under which the sale was made;

Thirdly, in discharge of all the principal money then due in respect of such mortgage; and

Fourthly, in payment of the amounts due to the subsequent incumbrancers according to their priorities,

and the residue shall be paid to the mortgagor. R.S.O. 1897, c. 121, s. 25.

Conveyance to
the purchaser.

23. The person exercising the power of sale shall have power to convey or assign to and vest in the purchaser the

property

property sold, for all the estate and interest therein of the mortgagor and of which he had power to dispose. R.S.O. 1897, c. 121, s. 26.

24. At any time after the power of sale shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover, from the mortgagor all deeds and documents in his possession or power relating to the mortgaged property, or to the title thereto, which he would have been entitled to demand and recover if the property had been conveyed, appointed, surrendered, or assigned to and was then vested in him for all the estate and interest of the mortgagor and of which he had power to dispose; and where the legal estate is outstanding in a trustee, the mortgagee, or any purchaser from him, shall be entitled to call for a conveyance of the legal estate to the same extent as the mortgagor could have called for such a conveyance if the mortgage had not been made. R.S.O. 1897, c. 121, s. 27.

Owner of charge may call for title deeds and conveyance of legal estate.

25. So much of this Part as confers a power to sell shall not apply in the case of a mortgage which contains a power of sale except as in section 26 provided; and so much as confers a power to insure shall not apply in the case of a mortgage which contains a power to insure; nor shall any of the provisions of this Part apply to a mortgage which contains a declaration that this Part shall not apply thereto. R.S.O. 1897, c. 121, s. 28.

Provisions as to sale, etc., not to apply in certain cases.

26.—(1) Where a mortgage made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale in the form No. 14, in Column One of Schedule B to that Act, the mortgagee, may, in exercising the power, in lieu of taking the proceedings provided for by such form, Column Two, take proceedings under and have the benefit of the provisions of this Part, except that such power shall not be exercisable until after at least four months' default and at least two months' notice, or such longer periods as may by the power contained in such mortgage be fixed therefor, and this Part shall apply to a sale made under such power.

Power of sale.
10 Edw. VII., c. 55.

Mortgagee having power of sale may proceed under this part.

(2) Where a mortgage purporting to be made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale which provides for a sale without notice, the mortgagee may take proceedings to sell under and have the benefit of the provisions of this Part as fully and effectually as if the mortgage had not contained a power of sale.

When mortgage provides for sale without notice.
10 Edw. VII., c. 55.

(3) Subsection 2 shall apply to all mortgages whether heretofore or hereafter made. R.S.O. 1897, c. 121, s. 29.

PART III.

GENERAL PROVISIONS AS TO POWER OF SALE.

Notice of sale shall state amounts claimed.

27. A notice of exercising a power of sale shall state the amounts claimed to be due for principal, interest and costs respectively. *New.*

When demand of payment made or notice of intention to exercise power of sale given, no other proceedings to be taken until expiration of time named in notice or demand without order of a judge.

28.—(1) Where, pursuant to any condition or proviso contained in a mortgage there has been made or given a demand or notice either requiring payment of the money secured by such mortgage, or any part thereof, or declaring an intention to proceed under and exercise the power of sale therein contained, no further proceeding and no action either to enforce such mortgage, or with respect to any clause, covenant or provision therein contained, or to the mortgaged property or any part thereof, shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the money is to be made, or the power of sale is to be exercised or proceeded under, be commenced or taken unless, and until an order permitting the same has been obtained from a Judge of the County or District Court of the County or District in which the mortgaged property or any part thereof is situate, or from a Judge of the High Court.

Proof on which order may be granted.

(2) The order may be obtained *ex parte*, upon such proof as satisfies the Judge that it is reasonable and equitable that the proposed action or proceeding should be permitted.

This section not to apply to proceedings to stay waste, etc.

(3) This section shall not apply to proceedings to stay waste or other injury to the mortgaged property. - R.S.O. 1897, c. 121, s. 31.

(*As to costs of order see The Judges' Orders' Enforcement Act, 9 Edw. VII., c. 46.*)

Payment to be accepted if made in terms of notice.

29.—(1) Where such demand or notice requires payment of all money secured by or under a mortgage, the person making such demand or giving such notice shall be bound to accept and receive payment of the same if made as required by the terms of such demand or notice.

Payment or tender of costs.

(2) If there is a dispute as to the costs payable by the person by or on whose behalf such payment is either made or tendered such costs shall, on three clear days' notice to such person by the person claiming the same, be taxed and ascertained by the Clerk of the County or District Court, or by the Local Master of the county or district in which the mortgaged property or any part thereof is situate.

(3)

(3) If within ten days after the costs have been so taxed and ascertained, payment of such money and costs is duly made or tendered to the person entitled thereto, or to his solicitor or agent, the same shall be deemed a compliance with such demand or notice. R.S.O. 1897, c. 121, s. 32.

(4) A mortgagee's costs of and incidental to the exercise of a power of sale, whether under this Part or otherwise may, without an order, be taxed by one of the taxing officers of the Supreme Court at Toronto or by a local master, having jurisdiction in the county or district in which the mortgaged property or any part of it is situate, at the instance of any person interested. R.S.O. 1897, c. 121, s. 30. Taxation of costs.

30. Chapter 121 of the Revised Statutes of Ontario, 1897, except section 34, and all amendments to the said chapter are repealed. Repeal.

31. This Act shall come into force and take effect on, from and after the 1st day of September, 1910. Commencement of Act.

FORM I.

NOTICE OF SALE UNDER MORTGAGE.

I hereby require you on or before the day of 19 ,
(a day not less than two calendar months from the service of the notice, and not less than six months after the default), to pay off the principal money and interest secured by a certain mortgage dated the day of 19 , and expressed to be made between (*here state parties and describe mortgaged property*), which mortgage was registered on the day of 19 (*and if the mortgage has been assigned add; and has since become the property of the undersigned*). And I hereby give you notice that the amounts due on the said mortgage for principal, interest, and costs respectively, are as follows: (*set the same forth*).

And unless the principal money, interest and costs are paid on or before the said day of 19 , I shall sell the property comprised in the said mortgage under the authority of *The Mortgages Act*.

Dated the day of 19 .

R.S.O. 1897, c. 121, s. 22.

CHAPTER 52.

An Act respecting the Assurance of Estates Tail.

Assented to 7th March, 1910.

- SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 ESTATES TAIL NOT TO BE BARRED BY WARRANTY, s. 3.
 TENANTS IN TAIL EMPOWERED TO ALIENATE, s. 4.
 Powers not exercisable—
 (1) Where reversion is in the Crown, s. 5.
 (2) By tenants in tail, after possibility of issue extinct, s. 6.
 (3) By heirs expectant, so as to bar expectancies, s. 7.
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 DISPOSITION FOR A LIMITED PURPOSE, s. 8.
 PROTECTOR OF THE SETTLEMENT:
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 Case of several owners of undivided shares in such estate, s. 10.
 Married women when protectors alone, or jointly with their husbands, s. 11.
 Protector as to estates restored or confirmed by settlement, s. 12.
 Who not to be protector:
 Lessees at rent, s. 13.
 Dowresses, bare trustees, heirs, executors, etc., s. 14.
 Where owner of prior estate disqualified, s. 15.
 Appointment by the settlor, ss. 16, 17.
 High Court, when to be, s. 18.
 Power of protector, ss. 19-22.
 CONFIRMATION OF PRIOR VOIDABLE ESTATE BY DISPOSITION UNDER THIS ACT, s. 23.
 ENLARGEMENT OF BASE FEES BY DISPOSITION UNDER THIS ACT, s. 24.
 DISPOSITION:
 To be by deed, s. 25.
 Deed to be registered, s. 26.
 MODE OF GIVING PROTECTOR'S CONSENT, AND ITS EFFECT, ss. 27-30.
 DISPOSITION OF ENTAILED MONEY, s. 31.
 REPEAL, s. 32.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Estates Tail Act.*"

Interpretation. 2.—(1) In this Act,

"Actual tenant in tail." (a) "Actual tenant in tail" shall mean exclusively the tenant of an estate tail which has not been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned into a right;

(b)

- (b) "Base fee" shall mean exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred; "Base fee."
- (c) "Estate" shall include an estate in equity as well as at law and any interest, charge, lien or incumbrance in, upon or affecting land, either at law or in equity, and any interest, charge, lien or incumbrance in, upon or affecting money subject to be invested in the purchase of land; "Estate."
- (d) "Estate tail" shall include a base fee into which an estate tail has been converted; "Estate tail."
- (e) "Land" shall include messuages, lands, tenements, rents and hereditaments of any tenure and whether corporeal or incorporeal, and any undivided share thereof; "Land."
- (f) "Money subject to be invested in the purchase of land" shall include money, whether raised or to be raised, and whether the amount thereof is or is not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of land and the land to be purchased with such money or produce shall include land of any tenure out of Ontario, where such land is within the scope or meaning of the trust or power directing or authorizing the purchase; "Money subject to be invested in the purchase of land."
- (g) "Tenant in tail" shall include a person who, where an estate tail has been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred; "Tenant in tail."
- (h) "Tenant in tail entitled to a base fee" shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail. "Tenant in tail entitled to a base fee."

(2) Every assurance already made or hereafter to be made whether by deed, will, Act of Parliament, of the Legislature, or otherwise, by which land heretofore has been or may hereafter be entailed, or agreed or directed to be entailed, shall be deemed a settlement. Settlement.

Appointment
in exercise of
a power under
a settlement.

(3) Every appointment made in exercise of any power contained in a settlement, or of any other power arising out of the power contained in a settlement, shall be considered as a part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement.

Settlement by
will to date
from testa-
tor's death.

(4) Where such settlement is made by will, the time of the death of the testator shall be considered the time when such settlement was made. R.S.O. 1897, c. 122, s. 1.

Estate tail
and estates
expectant
thereon, not
to be barred
by warranty.

3. All warranties of land made or entered into by a tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail. R.S.O. 1897, c. 122, s. 2.

Power to dis-
pose of lands
in fee simple
or for a less
estate, " etc.

4. Every actual tenant in tail, whether in possession, remainder, contingency or otherwise, may dispose of, for an estate in fee simple absolute, or for any less estate, the land entailed, as against all persons claiming the land entailed by force of any estate tail vested in or which might be claimed by or which, but for some previous act, would have been vested in, or might have been claimed by the person making the disposition, at the time of his making the same, and also as against all persons, including His Majesty, whose estates are to take effect after the determination, or in defeasance of such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition is made, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made. R.S.O. 1897, c. 122, s. 3.

Power of dis-
position not to
extend to cer-
tain tenants
in tail.
34 and 35
Hen. VIII.
c. 20.

5. The power of disposition hereinbefore contained shall not extend to tenants of estates tail, who, by any Act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct. R.S.O. 1897, c. 122, s. 6.

Power to en-
large base fees
saving the
rights of cer-
tain persons.

6. Where an estate tail has been barred, and converted into a base fee, the person who, if such estate tail had not been barred, would have been actual tenant in tail of land, may dispose of such land as against all persons, including His Majesty, whose estates are to take effect after the determination, or in defeasance of the base fee into which the estate tail has been converted, so as to enlarge the base fee into a fee simple absolute, saving always the right of all persons, in respect of estates prior to the estate tail, which has been converted into a base fee and the rights of all other persons except those against whom such disposition

is

is by this Act authorized to be made. R.S.O. 1897, c. 122, s. 7.

7. Nothing in this Act shall enable any person to dispose of any land entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein. R.S.O. 1897, c. 122, s. 8.

Issue inheritable not to bar expectancies.

8. If a tenant in tail makes a disposition of the land under this Act, by way of mortgage, or for any other limited purpose such disposition shall, to the extent of the estate thereby created, be an absolute bar to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected; but if the estate created by such disposition is only an estate *pur autre vie*, or for years absolute or determinable, or if, by a disposition under this Act by a tenant in tail an interest, charge, lien or incumbrance is created without a term of years absolute or determinable, or any greater estate for securing or raising the same, then such disposition shall be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interests, lien, charge or incumbrance, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected. R.S.O. 1897, c. 122, s. 9.

Extent of estate created by a tenant in tail by way of mortgage or for any other limited purpose.

PROTECTOR.

9. If at the time there is a tenant in tail of land under a settlement, and there is subsisting in the same land, or any part of it, under the same settlement, an estate for years, determinable on the dropping of a life or lives, or any greater estate, not being an estate for years, prior to the estate tail, then the person who is the owner of the prior estate, or the first of such prior estates, if more than one, then subsisting under the same settlement, or who would have been the owner if no absolute disposition thereof had been made (the first of such prior estates, if more than one, being for all the purposes of this Act, deemed the prior estate), shall be the protector of the settlement, so far as regards the land in which such prior estate is subsisting, and shall, for all the purposes of this Act, be deemed the owner of such prior estate, although the same may have been charged or incumbered, either by the owner thereof or by the settlor, or other wise howsoever, and although the whole of the rents and profits are exhausted, or are required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the

The owner of the first existing estate under settlement prior to an estate tail under the same settlement to be the protector of the settlement.

the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and an estate by the curtesy in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this section; and an estate by way of resulting use or trust to or for the settlor, shall be deemed an estate under the same settlement, within the meaning of this section. R.S.O. 1897, c. 122, s. 10.

Each of two or more owners of a prior estate to be the sole protector to the extent of his share.

10. Where two or more persons are owners, under a settlement within the meaning of this Act, of a prior estate, the sole owner of which estate, if there had been only one, would in respect thereof have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall in exclusion of the other or others of them be the sole protector of such settlement to the extent of such undivided share. R.S.O. 1897, c. 122, s. 11.

When a married woman alone shall be the protector, and when she and her husband together shall be protector

11. Where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is not thereby settled or agreed, or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement, and shall be deemed one owner; but if such prior estate has by such settlement been settled or agreed, or directed to be settled to her separate use, or is by *The Married Woman's Property Act* her separate estate, she alone in respect of such estate, shall be the protector of such settlement. R.S.O. 1897, c. 122, s. 12.

Rev. Stat., c. 163.

As to estates confirmed or restored by settlement.

12. Except in the case of a lease hereinafter provided for, where an estate is limited by a settlement, by way of confirmation, or where the settlement merely has the effect of restoring an estate, such estate shall, for the purpose of this Act, so far as regards the protector of the settlement be deemed an estate subsisting under such settlement. R.S.O. 1897, c. 122, s. 13.

As to leases at rent created by settlement.

13. Where a lease at a rent is created or confirmed by a settlement, the person in whose favour such lease is created or confirmed, shall not, in respect thereof, be the protector of such settlement. R.S.O. 1897, c. 122, s. 14.

No bare trustee, tenant in dower, etc., to be protector except under sect. 19.

14. No woman in respect of her dower, and no bare trustee, heir, executor, administrator or assign, in respect of any estate taken by him as such shall be the protector of a settlement. R.S.O. 1897, c. 122, s. 15.

15. Where under a settlement there is more than one estate prior to an estate tail, and the person who is the owner within the meaning of this Act, of such prior estate, in respect of which, but for the last preceding two sections, or one of them, he would have been the protector of the settlement, is by virtue of such sections, or either of them, excluded from being the protector—then the person (if any) who, if such estate did not exist, would be the protector of the settlement, shall be such protector. R.S.O. 1897, c. 122, s. 16.

Who shall be the protector where the owner of the prior estate is, by the last two sections, excluded.

For protector in cases of dispositions before July, 1846, and of settlements before January 1834, see R.S.O. 1897, c. 122, ss. 17-19, not consolidated.

16. Any settlor entailing land may appoint, by the settlement by which the land is entailed, any number of persons *in esse*, not exceeding three, to be protector of the settlement, in lieu of the person who would have been the protector if this section had not been enacted, and either for the whole or any part of the period for which such person might have continued protector; and, by means of a power to be inserted in such settlement, to perpetuate, during the whole or any part of such period, the protectorship of the settlement in any one person or number of persons *in esse*, whom the donee of the power thinks proper, by deed, to appoint protector of the settlement, in the place of any one person, or number of persons, who may die, or by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person; but the number of the persons to compose the protector by virtue or means of any such appointment, shall never exceed three. R.S.O. 1897, c. 122, s. 20.

Power to any settlor to appoint protector.

17. (1) Every deed by which a protector is appointed under a power in a settlement, and every deed by which a protector relinquishes his office shall be void unless registered in the registry office of the registry division wherein the land referred to lies, within six months after the execution thereof.

Deeds appointing protectors to be registered.

(2) The person who, but for the next preceding section, would have been sole protector of the settlement, may be one of the persons to be appointed protector under that section, if the settlor thinks fit, and shall, unless otherwise directed by the settlor, act as sole protector, if the other persons constituting the protector have ceased to be so by death or relinquishment of the office by deed, and no other person has been appointed in their place. R.S.O. 1897, c. 122, s. 21.

High Court to
be the protec-
tor where
protector
lunatic, etc.

18.—(1) If any person, protector of a settlement,

- (a) Is a lunatic, idiot, or of unsound mind, whether he has or has not been so found; or
- (b) Is convicted of treason or felony; or
- (c) Not being the owner of a prior estate under a settlement is an infant; or,
- (d) If it is uncertain whether he is living or dead,

the High Court shall be the protector of the settlement, in lieu of such person.

(2) If any settlor entailing land declares, in the settlement by which the land is entailed, that the person who, as owner of a prior estate under such settlement, would be entitled to be protector of the settlement, shall not be the protector, and does not appoint any person to be protector in his stead, the High Court shall, as to the land in which the prior estate is subsisting, be the protector of the settlement during the continuance of such estate.

(3) If in any other case, there is subsisting under a settlement an estate prior to an estate tail under the same settlement, and such prior estate is sufficient to qualify the owner thereof to be protector of the settlement, and there happens at any time to be no protector of the settlement as to the land in which the prior estate is subsisting, the High Court shall, while there is no such protector, and the prior estate is subsisting, be the protector of the settlement as to such land. R.S.O. 1897, c. 122, s. 22.

Where there
is a protector,
his consent
requisite to
enable an
actual tenant
in tail to
create a larger
estate than a
base fee.

19. If at the time when any person, actual tenant in tail of land under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, is desirous of making under this Act a disposition of the land entailed, there is a protector of such settlement, then the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the land entailed to the full extent to which he is hereinbefore authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this Act of the land entailed, which shall be good against all persons who, by force of any estate tail vested in or which might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, may claim the land entailed. R.S.O. 1897, c. 122, s. 23.

20. Where an estate tail has been converted into a base fee, so long as there is a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred, to exercise, as to the land in respect of which there is such protector, the power of disposition hereinbefore contained. R.S.O. 1897, c. 122, s. 24.

Where a base fee and a protector; his consent requisite to the exercising of a power of disposition.

21. Any device, shift, or contrivance by which it is attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void; and the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent; and no Court shall control or interfere to restrain the exercise of his power of consent, or treat his giving consent as a breach of trust. R.S.O. 1897, c. 122, s. 25.

The protector to be subject to no control in the exercise of his power of consenting.

22. The rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement, upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this Act. R.S.O. 1897, c. 122, s. 26.

Certain rules of equity not to apply between the protector and a tenant in tail.

23.—(1) Where a tenant in tail of land under a settlement has created in such land, or any part thereof, a voidable estate in favour of a purchaser for valuable consideration and afterwards, by an assurance other than a lease not requiring registration under section 26, makes a disposition, under this Act, of the land in which such voidable estate has been created, or any part thereof, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector of the settlement, or by the tenant in tail alone, if there be no such protector, have the effect of confirming such voidable estate in the land thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act.

Avoidable estate by a tenant in tail in favour of a purchaser confirmed by a subsequent disposition of such tenant in tail under this Act but not against a purchaser for value without notice.

(2) If, at the time of making such disposition, there is a protector of the settlement, and such protector does not consent to the disposition, and the tenant in tail is not without such consent capable under this Act of confirming the voidable estate to its full extent, then such disposition shall have

the

the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this Act of confirming the same without such consent.

(3) If such disposition is made to a purchaser for valuable consideration, not having express notice of the voidable estate, the voidable estate shall not be confirmed as against such purchaser and the person claiming under him. R.S.O. 1897, c. 122, s. 27.

Base fees when united with the immediate reversions enlarged instead of being merged.

24. If a base fee in any land and the remainder or reversion in fee in the same land are united in the same person, and there is no intermediate estate between the base fee and the remainder or reversion, the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act, if such remainder or reversion had been vested in any other person. R.S.O. 1897, c. 122, s. 28.

Tenant in tail may make a disposition by deed but not by will or contract.
44 V. c. 5.

25.—(1) Every disposition of land under this Act by a tenant in tail thereof shall be effected by some one of the assurances, not being a will, by which such tenant in tail could have made the disposition if his estate were an estate at law in fee simple absolute, and no disposition by a tenant in tail shall be of any force, under this Act, unless made or evidenced by deed.

(2) No disposition by a tenant in tail resting only in contract, either express or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force, under this Act, notwithstanding such disposition is made or evidenced by deed. R.S.O. 1907, c. 122, s. 29.

Assurances by a tenant in tail, other than certain leases to be inoperative unless registered within six months.

26. No assurance by which any disposition of land is effected under this Act by a tenant in tail thereof, except a lease for any term not exceeding 21 years, to commence twelve months from the date of such lease when such a lease is at rack-rent or not less than five-sixth parts of rack-rent, and except a lease made under the powers conferred by section 42 of *The Settled Estates Act*, shall have any operation under this Act unless it is registered in the registry office of the registry division wherein the land referred to lies within six months after the execution thereof. R.S.O. 1897, c. 122, s. 30.

Consent of protector to be at same time or previous to assurance.

27.—(1) The consent of a protector of a settlement to the disposition under this Act of a tenant in tail shall be

given

given either by the same assurance by which the disposition is effected, or by a deed distinct from the assurance, and executed either on or at any time before the day on which the assurance is made, otherwise the consent shall be void. R.S.O. 1897, c. 122, s. 31.

(2) If the protector of a settlement gives his consent to the disposition of a tenant in tail by a distinct deed, it shall be considered that such protector has given an absolute and unqualified consent, unless in such deed he refers to the particular assurance by which the disposition is effected, and confines his consent to the disposition thereby made. R.S.O. 1897, c. 122, s. 32.

If by distinct deed, to be deemed unqualified unless otherwise expressed.

(3) The protector of a settlement, who, under this Act, has given his consent to the disposition of a tenant in tail, shall not revoke such consent. R.S.O. 1897, c. 122, s. 33.

Protector not to revoke his consent.

(4) A married woman, being, either alone or jointly with her husband, protector of a settlement, may under this Act, in the same manner as if she were a *feme sole*, give her consent to the disposition of a tenant in tail. R.S.O. 1897, c. 122, s. 34.

A married woman protector.

(5) The consent of the protector of a settlement to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition is effected, be void, unless such deed is registered in the registry office of the registry division wherein the land referred to lies, either at or before the time of the registration of the assurance. R.S.O. 1897, c. 122, s. 35.

Consent by distinct deed void, unless registered with or before assurance.

28.—(1) In the case of a disposition of land under this Act by the tenant in tail thereof, and in the case of a consent by the protector of a settlement to such a disposition, the equitable jurisdiction of the Courts in regard to the specific performance of contracts and the supplying of defects in the execution, the powers of disposition given by this Act to tenants in tail, or the powers of consent given by this Act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement, which before the passing of *The Administration of Justice Act* of 1873, would not, in a Court of Law, be an effectual disposition or consent within the meaning of this Act shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration or otherwise.

Equitable jurisdiction of the Courts excluded from giving any effect to dispositions in tail, etc.

36 V. c. 8.

(2) No disposition of land under this Act by a tenant in tail thereof in Equity, and no consent by a protector of a settlement to such a disposition, shall be of any force, unless such disposition or consent would have been, in case of an estate tail at Law, before *The Administration of Justice Act, 1873*, an effectual disposition or consent within the meaning of this Act in a Court of Law. R.S.O. 1897, c. 122, s. 36.

When the High Court may consent to a disposition by a tenant in tail, and make such orders as are thought necessary.

29. Where the High Court is the protector of a settlement, such Court, while protector of the settlement, shall, on motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition, under this Act, by such tenant in tail; and the disposition to be made by such tenant in tail upon such motion or petition, shall be such as may be approved of by the Court, and the Court may make such orders in the matter as may be thought necessary; and if the Court, in lieu of any person is protector of a settlement, and there is another person protector of the same settlement jointly with such first mentioned person, the disposition by the tenant in tail, though approved of by the Court, shall not be valid, unless such other person, being protector, consents thereto in the manner in which the consent of the protector is by this Act required to be given. R.S.O. 1897, c. 122, s. 37.

Order of the High Court to be evidence of consent.

30. Where the High Court is the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition is made. R.S.O. 1897, c. 122, s. 38.

Mode of disposition of money subject to be invested in lands to be entailed.

31. Land to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof is subject to be invested in the purchase of land to be settled, so that any person, if the land were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of land to be settled, so that any person, if the land were purchased, would have an estate tail therein, shall, for all the purposes of this Act, be treated as the land to be purchased, and be considered subject to the same estates as the land to be purchased would, if purchased, have been actually subject to; and all the previous sections in this Act, so far as circumstances will admit, shall, in the case of the land to be so sold, apply to such land in the same manner as if the land to be purchased with the money to arise from the sale were directed to be freehold, and were actually purchased and settled; and shall, in the case of money subject to be invested in the purchase of land to be so

settled

settled, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold land, and such land were actually purchased and settled; except that, where under this section a disposition is to be made of leasehold land for years absolute or determinable, so circumstanced, or of money so circumstanced, such leasehold land or money shall, as to the person in whose favour or for whose benefit the disposition is made, be treated as personal estate, and the assurance by which the disposition of such leasehold land or money is effected shall be an assignment by deed, which shall have no operation under this Act unless registered in the registry office of the registry division in which the land therein referred to lies within six months after the execution thereof. R.S.O. 1897, c. 122, s. 39.

32. Chapter 122 of the Revised Statutes, 1897, except sections, 17; 18 and 19, and sections 34 and 35 of chapter 330 of the said Revised Statutes, and all amendments to the said chapter 122 are repealed. Repeal. 1

CHAPTER 53.

An Act respecting Short Forms of Conveyances

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Short Forms of Conveyances Act.*"

Interpretation. 2. In this Act,

"Land," (a) "Land" shall include freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein.

"Party." (b) "Party" and "Parties" shall include a body politic or corporate, as well as an individual.
R.S.O. 1897, c. 124, s. 1.

Where words of Column 1 of Schedule B are employed the deed to have the same effect as if the words in Column 2 were inserted. 3. Where a deed of land made according to the form set forth in Schedule A, or any other deed of land expressed to be made in pursuance of this Act or referring thereto contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, such deed shall have the same effect as if it contained the form of words in Column Two of Schedule B, distinguished by the same number as is annexed to the form of words used in such deed; but it shall not be necessary, in any such deed, to insert any such number. R.S.O. 1897, c. 124, s. 2.

Parties may substitute names for "grantor" or "grantee." 4.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the words "Grantor" or "Grantee," any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

May substitute feminine for masculine or plural for singular.

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

May introduce exceptions.

(4) Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words at the end of form two of the first column, so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever; and in every such case the covenants 2, 3 and 4, or such of them as may be employed in such deed, shall be taken to extend to the acts of the person or persons, class or classes of persons so named. R.S.O. 1897, c. 124, Schedule B, *part*.

May add names or designations.

5. Any deed or part of a deed which fails to take effect by virtue of this Act, shall, nevertheless, be as effectual to bind the parties thereto, as if this Act had not been passed. R.S.O. 1897, c. 124, s. 3.

Deeds failing to take effect under this Act to be as valid as if Act not passed.

6. Chapter 124 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

7. This Act shall come into force and take effect on, from and after the 1st day of September, 1910.

Commencement of Act.

[See also *Cap. 119, sec. 12.*]

SCHEDULE A

This Indenture made the _____ day of _____, one thousand nine hundred and _____, in pursuance of *The Short Forms of Conveyances Act*. Between (here insert names of parties and recitals, if any), Witnesseth, that in consideration of _____ now paid by the said (grantee) to the said (grantor) the receipt whereof is hereby by him acknowledged, he the said (grantor) doth grant unto the said (grantee) in fee simple (or otherwise as the case may be) all, etc., (parcels)

(Here insert covenants, or any other provisions.)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1897, c. 124, Sched. A.

SCHEDULE B.

SCHEDULE B.

COLUMN ONE.

COLUMN TWO.

1. The said grantor covenants with the said grantee.
 2. That he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor.
 3. And that the said grantee shall have quiet possession of the said lands.
 4. Free from all incumbrances.
 5. And the said grantor covenants with the said grantee that he will execute such further assurances of the said lands as may be requisite.
1. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators and assigns, in manner following, that is to say :
 2. That for and notwithstanding any act, deed, matter or thing by the said grantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said grantor, now hath in himself good right, full power, and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said grantee, in manner aforesaid, and according to the true intent of these presents.
 3. And that it shall be lawful for the said grantee, his heirs, executors, administrators and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof, to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said grantor, or his heirs, or any person claiming, or to claim, by, from, under or in trust for him, them or any of them.
 4. And that free and clear, and freely and absolutely acquitted, exonerated and for ever discharged or otherwise by the said grantor or his heirs well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and incumbrance whatsoever, made, executed, occasioned or suffered by the said grantor or his heirs, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.
 5. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise, and agree with and to the said grantee, his heirs, executors, administrators and assigns, that he the said grantor, his heirs, executors and administrators, and all and every other person who-soever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter,

upon

COLUMN ONE.

COLUMN TWO.

upon every reasonable request, and at the costs and charges of the said grantee, his heirs, executors, administrators or assigns, make, do, execute, or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said grantee, his heirs, executors, administrators and assigns, in manner aforesaid as by the said grantee, his heirs, executors, administrators or assigns, his or their counsel in the law, shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors or administrators only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said grantor covenants with the said grantee that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said grantee.

6. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said grantee, his heirs, executors, administrators and assigns, that the said grantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said grantee, his heirs, executors, administrators or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said grantee, his heirs, executors, administrators and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said grantee, his heirs, executors, administrators, or assigns, or such person as he or they shall for that purpose direct and appoint.

7 And the said grantor covenants with the said grantee that he has done no act to in-

7. And the said grantor, for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered

any

COLUMN ONE.

cumber the said
lands.

8. And the said
grantor releases to
the said grantee all
his claims upon the
said lands.

9. And the said
wife of the said
grantor hereby
bars her dower in
the said lands.

COLUMN TWO.

any act, deed, matter or thing whatsoever,
whereby or by means whereof the said lands
and premises hereby conveyed, or intended so
to be, or any part or parcel thereof are, is or
shall or may be in anywise impeached, charged,
affected or incumbered in title, estate or other-
wise howsoever.

8. And the said grantor hath released, re-
mised and for ever quitted claim, and by these
presents doth release, remise and for ever
quit claim, unto the said grantee, his heirs,
executors, administrators and assigns, all, and
all manner of right, title, interest, claim and
demand whatsoever, in, to and out of the said
lands and premises hereby granted, or intended
so to be, and every part and parcel thereof,
so as that neither he nor his heirs, executors,
administrators or assigns shall nor may, at any
time hereafter, have claim, pretend to, chal-
lenge or demand the said lands and premises
or any part thereof, in any manner howsoever,
but the said grantee, his heirs, executors, ad-
ministrators and assigns, and the same lands
and premises shall from henceforth forever
hereafter be exonerated and discharged of and
from all claims and demands whatsoever which
the said grantor might or could have upon him
in respect of the said lands, or upon the said
lands.

9. And the said wife of the said grantor
for and in consideration of the sum of one
dollar of lawful money of Canada, to her in
hand paid by the said grantee at or before the
sealing and delivery of these presents, the re-
ceipt whereof is hereby acknowledged, hath
granted and released, and by these presents
doth grant and release unto the said grantee,
his heirs, executors, administrators and assigns,
all her dower and right and title which, in the
event of her surviving her said husband, she
might or would have to dower, in, to or out
of the lands and premises hereby conveyed or
intended so to be.

R.S.O. 1897, c. 124, Sched. B.

CHAPTER 54.

An Act respecting Short Forms of Leases.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Short Forms of Leases Act*." Short title.

2. Where a lease under seal made according to the form set forth in Schedule A, or any other such lease expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, such lease shall have the same effect as if it contained the form of words contained in Column Two of Schedule B, distinguished by the same number as is annexed to the form of words used in such lease; but it shall not be necessary, in any such lease, to insert any such number. R.S.O. 1897, c. 125, s. 1. Where words of Column 1 of Schedule B are employed, the deed to have the same effect as if the words in column 2 were inserted.

3—(1) Parties who use any of the forms in the first column of Schedule B, may substitute for the words "Lessee" or "Lessor" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column. Parties may substitute any name or designation.

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular in the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column. May substitute feminine for masculine or plural for assigns.

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. May introduce exceptions.

Application of
covenants to
heirs and
assigns.

(4) Where the premises demised are of freehold tenure, the covenants 2 to 9 shall be taken to be made with, and the proviso 12 to apply to the heirs and assigns of the lessor; and where the premises demised are of leasehold tenure, such covenants and proviso shall be taken to be made with, and apply to the lessor, his executors, administrators and assigns.

"Lessor,"
meaning of.

(5) Where the word "lessor" occurs in the second column, it shall, when the premises demised are of freehold tenure, include the heirs, executors, administrators and assigns of the lessor, and when the premises demised are of leasehold tenure it shall include the executors, administrators and assigns of the lessor, and where the word "lessee" occurs in the second column it shall include the executors, administrators and assigns of the lessee. R.S.O. 1897, c. 125, Schedule B, *part*.

Deeds failing
to take effect
under this Act
to be as valid
as if Act not
passed.

4. Any lease or part of a lease which fails to take effect by virtue of this Act, shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been passed. R.S.O. 1897, c. 125, s. 2.

Covenants to
run with land.

5. Unless the contrary is expressly stated in the lease, all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act shall run with the land demised, and shall bind the executors, administrators and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B shall, when inserted in a lease, apply to a breach of either an affirmative or negative covenant. R.S.O. 1897, c. 125, s. 3.

Repeal.

6. Chapter 125 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Commence-
ment of Act.

7. This Act shall come into force and take effect on, from and after the 1st day of September, 1910.

SCHEDULE A.

FORM OF LEASE.

This indenture, made the _____ day of _____, one thousand nine hundred and _____, in pursuance of *The Short Forms of Leases Act*, between _____, of the first part, and _____, of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the lessee, the lessor doth demise and lease unto the lessee, his executors, administrators and assigns all that (*here insert a description of the premises with sufficient certainty*).

To

To have and to hold the said demised premises for and during the term of , to be computed from the day of , one thousand nine hundred and , and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term unto the said lessor, his (or their) heirs, executors, administrators, or assigns, the sum of , to be payable on the following days and times, that is to say (on, etc.); the first of such payments to become due and be made on the day of next, (*here insert covenants or any other provisions*). In witness whereof, etc.

R.S.O. 1897, c. 125, Sched. A.

SCHEDULE B.

COLUMN ONE.

COLUMN TWO.

1. The said lessee covenants with the said lessor.

1. And the said lessee doth hereby covenant with the said lessor in manner following, that is to say:

2. To pay rent.

2. That he, the said lessee, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

3. And to pay taxes, except for local improvements.

3. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.

4. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

4. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

5. And to keep up fences.

5. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year.

6. And not to cut down timber.

6. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees, except for necessary repairs, or firewood, or for the purpose of clearance as herein set forth.

7. And

COLUMN ONE.

COLUMN TWO.

7. And that the said lessor may enter and view state of repair, and that the said lessee will repair according to notice in writing, reasonable wear and tear, and damage by fire, lightning and tempest only excepted.

8. And will not assign or sub-let without leave.

9. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, that the lessee may remove his fixtures.

11. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

7. And that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

8. And also that the lessee shall not, nor will during the said term, assign, transfer or set over, or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor first had and obtained.

9. And further, that the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised with the appurtenances, together with all the buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear, and damage by fire, lightning and tempest only excepted.

10. Provided, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.

11. Provided, and it is hereby expressly agreed, that in case the premises hereby demised or any part thereof shall at any time during the said term be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.

12. Provided

COLUMN ONE.

COLUMN TWO.

12. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

12. Provided, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, then and in either of such cases it shall be lawful for the lessor at any time hereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his former estate; anything hereinafter contained to the contrary notwithstanding.

13. The said lessor covenants with the said lessee for quiet enjoyment.

13. And the lessor doth hereby covenant with the lessee, that he paying the rent hereby reserved and performing the covenants hereinbefore on his part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, or any other person or persons lawfully claiming by, from or under him.

R.S.O. 1897, c. 125, Sched. B.

CHAPTER 55.

An Act respecting Short Forms of Mortgages.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The Short Forms of Mortgages Act.*"

Interpretation. **2.** In this Act,

"Land." (a) "Land" shall include freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;

"Party." (b) "Party" and "Parties" shall include a body politic or corporate as well as an individual. R.S.O. 1897, c. 126, s. 1.

Where words of column one of Schedule B are employed, the mortgage to have the same effect as if the words in column two were inserted. **3.**—(1) Where a mortgage of land, made according to the form set forth in Schedule A, or any other mortgage of land expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, such mortgage shall have the same effect, as if it contained the form of words in Column Two of Schedule B, distinguished by the same number as is annexed to the form of words used in such mortgage; but it shall not be necessary in any such mortgage to insert any such number. R.S.O. 1897, c. 126, s. 2.

(2) Where a blank occurs in any of the forms in Column Two, such form shall be read as if it were filled in with the words which supply the place of the blank in the corresponding form in Column One. *New.*

4.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the words "Mortgagor" or "Mortgagee," any name or other designation; and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

Parties may substitute names or designations.

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column; and corresponding changes shall be taken to be made in the corresponding forms in the second column.

And feminine for masculine gender or plural for singular.

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or other express qualifications thereof respectively; and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1897, c. 126, schedule B, part.

And may introduce exceptions or qualifications.

5. Any such mortgage or part of such mortgage which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been passed. R.S.O. 1897, c. 126, s. 3.

Mortgages not taking effect under this Act how far valid.

6. Chapter 126 of The Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

7. This Act shall come into force and take effect on, from and after the 1st day of September, 1910.

Commencement of Act.

[See also Cap. 119 sec. 12.]

SCHEDULE A.

FORM OF MORTGAGE.

This Indenture, made the _____ day of _____, one thousand nine hundred and _____, in pursuance of *The Short Forms of Mortgages Act*, between *(here insert the names of parties and recitals, if any)*. Witnesseth, that in consideration of _____ of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all *(parcels)*.

(Here insert provisoes, covenants or other provisions.)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1897, c. 126, Sched. A.

SCHEDULE B.

SCHEDULE B.

COLUMN ONE.

COLUMN TWO.

1. And the said wife of the said mortgagee hereby bars her dower in the said lands.
 2. Provided this mortgage to be void on payment of lawful money of Canada, with interest at per cent., as follows:
 - and taxes and performance of statute labour.
 3. The said mortgagor covenants with the said mortgagee.
 4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.
1. And the said wife of the said mortgagor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said mortgagee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators and assigns, all her dower, and right and title which in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.
 2. Provided always, and these presents are upon this express condition, that if the said mortgagor, his heirs, executors, administrators or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the just and full sum of of lawful money of Canada, with interest thereon, at the rate of per cent. per annum, on the days and times, and in manner following that is to say:
 - without any deduction, defalcation or abatement out of the same for or in respect of any taxes, rates, levies, charges, rents, assessments, statute labour or other impositions whatsoever already rated, charged, assessed or imposed or hereafter to be rated, charged, assessed or imposed by authority of Parliament or of the Legislature, or otherwise howsoever, on the said lands and tenements, hereditaments and premises with the appurtenances, or on the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said premises, or of the said money or interest, or any other matter or thing relating to these presents, and until such default as aforesaid shall and will well and truly pay, do and perform or cause or procure to be paid, done and performed, all matters and things in this proviso hereinbefore set forth, then these presents and everything in the same contained shall be absolutely null and void.
 3. And the said mortgagor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators and assigns, in manner following, that is to say:
 4. That the said mortgagor, his heirs, executors, administrators or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for

ed for

COLUMN ONE.

COLUMN TWO.

ed for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

5. That the mortgagor has a good title in fee simple to the said lands.

5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances and of and in every part and parcel thereof, without any manner of trusts, reservations, limitations, provisos or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, incumber or defeat the same.

6. And that he has the right to convey the said lands to the said mortgagee.

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And that on default the mortgagee shall have quiet possession of the said lands.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators or assigns or any other person or persons whomsoever.

8. Free from all incumbrances.

8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, an-

nuities

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nalties, debts, executions and recognizances, and of and from all manner of other charges or incumbrances whatsoever.

9. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs, executors, administrators and assigns and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, his heirs, executors, administrators or assigns shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators and assigns, as by the said mortgagee, his heirs, executors, administrators or assigns, or his or their counsel learned in the law shall or may be lawfully and reasonably devised, advised, or required, but so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

10. And that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

10. And also, that the said mortgagor, his heirs, executors, administrators, and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee, his heirs, executors, administrators, or assigns at any trial or hearing in any action or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed

or

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or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators and assigns, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators and assigns.

11. And that the said mortgagor has done no act to incumber the said lands.

11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than of lawful money of Canada.

12. And also that the said mortgagor or his heirs, executors, administrators or assigns shall and will forthwith insure unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee his heirs, executors, administrators or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators or assigns, the policy or policies of insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

13. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

13. And the said mortgagor hath released, remised and for ever acquitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof

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thereof, so as that neither the said mortgagor, his heirs, executors, administrators or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises, or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided,
that the said mort-
gagee on default of
payment for
may on
notice enter
on and lease or sell
the said lands.

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in any payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators or assigns, after giving written notice to the said mortgagor, his heirs, executors, administrators or assigns, of his or their intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than previous, without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he or they shall think fit, and also to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction or private contract, or partly by public auction and partly by private contract, as to him or them shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his or their heirs or assigns, or as he or they shall direct and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors, administrators

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administrators or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid, unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators or assigns, shall bear, sustain, or be put to for taxes, rent, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and incumbrance whatsoever by the said mortgagee, his heirs, executors, administrators or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents,

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sents, the said mortgagee, his heirs, executors, administrators or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators and assigns in the said lands, tenements, hereditaments and premises, as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.

15. Provided that the mortgagee may distrain for arrears of interest.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and, by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.

16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned, or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the High Court, relief therein could be obtained, be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

17. Provided that until default of payment the mortgagor shall have

17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, and until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or

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quiet possession of the said lands.

the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor his heirs, executors, administrators and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors administrators or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R.S.O. 1897, c. 126, Schedule B.

CHAPTER 56.

An Act respecting the Devolution and Distribution of Estates

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	PERSONAL REPRESENTATIVE UNDER WILL, s. 14.
INTERPRETATION, s. 2.	CAUTIONS, ss. 15-17.
PROPERTY TO DEVOLVE ON PERSONAL REPRESENTATIVE, s. 3.	PERSONS ENTITLED TO TAKE AS TENANTS IN COMMON, s. 18.
LAW AS TO PERSONALTY TO APPLY, s. 4.	POWERS OF PERSONAL REPRESENTATIVE, ss. 19-26.
ADMINISTRATION OF REAL PROPERTY, s. 5.	Infants' estates, s. 19.
PAYMENT OF DEBTS OUT OF RESIDUE, s. 6.	Real property, s. 20.
PERSONAL REPRESENTATIVE TO BE DEEMED HEIR, s. 7.	Selling and dividing estate, s. 21.
TRUST ESTATES AND MORTGAGES, s. 8.	Effect of acceptance of share, s. 22.
DOWER, s. 9.	Protection of purchasers, ss. 23, 24.
WHO TO BE DEFENDANTS IN FORECLOSURE ACTION WHERE NO PERSONAL REPRESENTATIVE OF MORTGAGOR, s. 10.	Leasing and mortgaging, s. 25.
SALE FREE FROM DOWER AND CURTESY, s. 11.	Rights of purchaser in good faith against claims of creditors, s. 26.
WIDOW'S PREFERENTIAL SHARE, s. 12.	DISTRIBUTION OF ASSETS, ss. 27-32.
VESTING OF ESTATES IN BENEFICIARIES, s. 13.	RULES OF PROCEDURE, s. 33.
	USE OF AFFIDAVITS, s. 34.
	REPEAL, s. 35.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Devolution of Estates Act.*" R.S.O. 1897, c. 127, s. 1.

Interpretation.

2. In this Act

(a) "Lunatic" shall include an idiot and a person of unsound mind.

(b) "Personal representative" shall mean and include an executor, an administrator, and an administrator with the will annexed.

3.—(1) All real and personal property which is vested in any person without a right in any other person to take by survivorship, shall on his death, whether testate or intestate, and notwithstanding any testamentary disposition, devolve to and become vested in his personal representative from time to time, as trustee for the persons by law beneficially entitled thereto and, subject to the payment of his debts, and so far as such property is not disposed of by deed, will, contract or other effectual disposition, the same shall be administered, dealt with and distributed as if it were personal property not so disposed of.

Property to devolve on personal representative.

(2) This section shall apply to property over which a person executes by will a general power of appointment as if it were property vested in him.

(3) This section shall not apply to estates tail or to the personal property, except chattels real, of any person who at the time of his death is domiciled out of Ontario. See 60-61 V., (Imp.), c. 65, s. 1. *The Land Transfer Act*, 1897; R.S.O. 1897, c. 127, s. 3; 2 Edw. VII. c. 1, s. 3.

4. The enactments and rules of law relating to the effect of probate or letters of administration as respects personal property and as respects the dealings with personal property before probate or administration and as respects the payment of costs of administration and other matters in relation to the administration of personal estate and the powers, rights, duties and liabilities of personal representatives in respect of personal estate shall apply to real property vesting in them, so far as the same are applicable as if that real property were personal property, save that it shall not be lawful for some or one only of several joint personal representatives without the authority of the High Court or a Judge thereof to sell or transfer real property. 60-61 V., c. 65, s. 2 (2) Imp.

Real property to be dealt with as if it were personal property.

Administration of Real Property.

5. Subject to the other provisions of this Act, in the administration of the assets of a deceased person, his real property shall be administered in the same manner, subject to the same liability for debts, costs and expenses and with the same incidents as if it were personal property, but nothing in this section shall alter or affect as respects real or personal property of which the deceased has made a testamentary disposition the order in which real and personal assets are now applicable to the payment of funeral and testamentary expenses, the costs and expenses of administration, debts or legacies, or the liability of real property to be charged with the payment of legacies. 60 and 61 Vict. (Imp.), c. 65, s. 2 (3).

Real property to be administered as personal property.

Payment of Debts out of Residue.

Application of
property in
payment of
debts.
10 Edw. VII.,
c. 57.

6. Subject to provisions of section 38 of *The Wills Act*, the real and personal property of a deceased person comprised in any residuary devise or bequest shall, except so far as a contrary intention appears from his will or any codicil thereto, be applicable rateably, according to their respective values, to the payment of his debts, funeral and testamentary expenses and the cost and expenses of administration. R.S.O. 1897, c. 127, s. 7.

When personal
representatives
to be deemed
"heirs."

7. When any part of the real property of a deceased person vests in his personal representative under this Act, such personal representative, in the interpretation of any statute of this Province, or in the construction of any instrument to which the deceased was a party, or under which he is interested, shall, while the estate remains in him, be deemed in law his heir, as respects such part, unless a contrary intention appears, but nothing in this section shall affect the beneficial right to any property, or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.S.O. 1897, c. 127, s. 10.

Mortgages, Trust Estates and Dower.

Trust and
mortgage
estates de-
volve on
personal repre-
sentatives.

8. Where an estate or interest of inheritance in real property is vested on any trust or by way of mortgage in any person solely the same shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all the like incidents but subject to all the like rights, equities and obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. Imp. *Conveyancing Act of 1881*, 44 and 45 Vict., c. 41, s. 30.

Saving as to
dower.

9. —(1) Nothing in this Act shall take away a widow's right to dower; but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this Act in her husband's undisposed of real property, in lieu of all claim to dower in respect of the real property of which her husband was at any time seised, or to which at the time of his death he was beneficially entitled

titled; and unless she so elects she shall not be entitled to share in the undisposed of real property. R.S.O. 1897, c. 127, s. 4 (2).

(2) The personal representative of the deceased may by notice in writing require his widow to make her election and if she fails to execute and deliver a deed or instrument of election to him within six months after the service of the notice, she shall be deemed to have elected to take her dower. *New.*

(3) Where the widow is an infant or a lunatic the right of election may be exercised on her behalf by the Official Guardian with the approval of a Judge of the High Court, or by some person authorized by a Judge of the High Court to exercise it; and the Official Guardian or the person so authorized may for and in the name of the widow give all notices and do all acts necessary or incidental to the exercise of such right.

10. (1) Where there is no legal personal representative of a deceased mortgagor of freehold property it shall be sufficient for the purposes of an action for the foreclosure of the equity of redemption in, or for the sale of, such property that the person beneficially entitled under the last will and testament, if any, of the deceased mortgagor, or under the provisions of this Act, to such property or the proceeds thereof be made defendant to such action, and it shall not be necessary that a legal personal representative of the deceased mortgagor be appointed or be made a defendant thereto unless it shall be otherwise ordered by the Court in which the action is brought or by a Judge thereof; ^{Who to be defendants in action for foreclosure where no personal representative of mortgagor.} Provided always that if ^{Proviso.} during the pendency of such action the equity of redemption devolves upon and becomes vested in a legal personal representative of the mortgagor he shall be made a party to the action.

(2) In subsection 1 the word "mortgagor" shall include the assignee of a mortgagor and any person entitled to or interested in the equity of redemption. 6 Edw. VII. c. 23, s. 1. ^{"Mortgagor" meaning of.}

11.—(1) Where the personal representative desires to sell any real property devolving upon him free from curtesy or dower he may apply to a Judge of the High Court, who may, in a summary way, and upon notice, to be served personally unless the Judge otherwise directs, order that the same shall be sold free from the right of the tenant by the curtesy or dowress; and in making such order regard shall be had to the interests of all parties. ^{Application for order allowing sale of land by personal representatives free of dower or curtesy.}

(2) If a sale free from such curtesy or dower is ordered all the right and interest of such tenant by the curtesy or dowress shall pass thereby; and no conveyance or release thereof to the purchaser shall be required; and the purchaser, his heirs and assigns, shall hold the real property freed and discharged from the estate or interest of such tenant by the curtesy or dowress.

(3) The Judge may direct the payment of such sum in gross out of the purchase money to the person entitled to curtesy or dower as he may deem, upon the principles applicable to life annuities, a reasonable satisfaction for such estate or interest; or may direct the payment to the person entitled of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as he may deem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as he may deem necessary. R.S.O. 1897, c. 127, s. 11.

Widow
entitled to
whole estate
not exceeding
\$1,000.

12.—(1) The real and personal property of every man dying intestate and leaving a widow but no issue shall, where the net value of such real and personal property does not exceed \$1,000, belong to his widow absolutely and exclusively.

Where estate
exceeds.
\$1,000.

(2) Where the net value exceeds \$1,000, the widow shall be entitled to \$1,000, part thereof, absolutely and exclusively and shall have a charge thereon for such sum, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

Widow's share
in remainder
of estate.

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$1,000 and interest, in the same way as if such residue had been the whole of the intestate's real and personal property, and this section had not been enacted. R.S.O. 1897, c. 127, s. 12.

Where estate
consists of real
property.

(4) Where the estate consists in whole or in part of real property this section shall apply only if the widow elects under section 9 to take an interest in her husband's undisposed of real property in lieu of dower.

"Net value,"
meaning of.

(5) In this section "net value" shall mean the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty.

VESTING OF ESTATE AND CAUTIONS.

13.—(1) Real property not disposed of, conveyed to, divided or distributed among the persons beneficially entitled thereto under the provisions of section 21 by the personal representative within three years after the death of the deceased shall, subject to *The Land Titles Act* in the case of land registered under that Act, at the expiration of that period, whether probate or letters of administration have or have not been taken, be thenceforward vested in the persons beneficially entitled thereto under the will or upon the intestacy or their assigns without any conveyance by the personal representative unless such personal representative, if any, has registered, in the proper registry of land titles office, a caution, Form 1, under his hand, and if such caution is so registered such real property or the part thereof mentioned therein shall not be so vested for twelve months from the time of registration of such caution or of the last caution if more than one are registered. R.S.O. 1897, c. 127, s. 13 (1); 2 Edw. VII., c. 17, s. 3; 6 Edw. VII., c. 23, s. 2.

Real estate not disposed of within 3 years to vest in heirs unless caution registered. Rev. Stat. c. 188.

(2) The execution of every caution shall be verified by the affidavit of a subscribing witness in the manner prescribed by *The Registry Act*, or *The Land Titles Act*, as the case may be.

10 Edw. VII., c. 60. Rev. Stat., c. 138.

(3) Where the caution specifies certain parcels of land it shall be effectual as to those parcels only.

If Caution specifies lands these only affected.

(4) The personal representative before the expiration of the twelve months may register a certificate, Form 2, withdrawing the caution; or withdrawing the same as to any parcel of land specified in such certificate and upon registration of the certificate the property or the parcel specified shall be treated as if the caution had expired..

Withdrawal of Caution.

(5) The certificate of withdrawal shall be verified by an affidavit of a subscribing witness, Form 3.

Certificate of withdrawal to be verified on oath.

(6) Before a caution expires it may be re-registered, and so on from time to time as long as the personal representative deems it necessary, and every caution shall continue in force for twelve months from the time of its registration or re-registration. R.S.O. 1897, c. 127, s. 13 (2-7).

Renewal of Caution.

14. Nothing in section 13 shall derogate from any right possessed by an executor or administrator with the will annexed under a will or under *The Trustee Act* or from any right possessed by a trustee under a will. 2 Edw. VII., c. 17, s. 1.

Section 13, not to affect the rights of executors, etc.

Registration
of Caution
after 3 years
from death
of testator.

Proviso.

15.—(1) Where a personal representative has not registered a caution within the proper time after the death of the deceased, or has not re-registered a caution within the proper time, he may register or re-register the caution, as the case may be, provided he registers therewith:—

- (a) The affidavit of execution;
- (b) A further affidavit stating that he finds or believes that it is or may be necessary for him to sell the real property of the deceased or the part thereof mentioned in the caution, under his powers and in fulfilment of his duties; and as far as they are known to him, the names of all persons beneficially interested in the real property, and whether any, and if so which of them, are infants or lunatics;
- (c) The consent in writing of every adult and of the Official Guardian on behalf of every infant and lunatic whose property or interest would be affected; and an affidavit verifying such consent; or
- (d) In the absence and in lieu of such consent, an order of a Judge of the High Court or of the County or District Court of the county or district wherein the property or some part thereof is situated, or the certificate of the Official Guardian authorizing the caution to be registered, or re-registered, which order or certificate the Judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the caution to be registered or re-registered; and the order or certificate to be registered shall not require verification and shall not be rendered null by any defect of form or otherwise. R.S.O. 1897, c. 127, s. 14; 2 Edw. VII., c. 17, s. 10.

Application of
this section.

(2) This section shall extend to cases where a grant of probate of the will or of administration to the estate of the deceased may not have been made within the period after the death of the testator or intestate within which a caution is required to be registered. 2 Edw. VII., c. 17, s. 4.

Effect of
registration.

(3) Where a caution is registered or re-registered under the authority of this section, it shall have the same effect as a caution registered within the proper time after the death of the deceased and of vesting or re-vesting, as the

case

case may be, the real property of the deceased in his personal representative, save as to persons who in the meantime have acquired rights for valuable consideration from or through any person beneficially entitled; and save also and subject to any equities of any non-consenting person beneficially entitled or person claiming under him, for improvements made after the time within which the personal representative might, without any consent, order or certificate have registered or re-registered a caution, if his real property is afterwards sold by the personal representative. R.S.O. 1897, c. 127, s. 15; 2 Edw. VII., c. 17, s. 11.

(4) Where there are two or more personal representatives, it shall be sufficient if any caution or the affidavit mentioned in clause (b) of subsection 1 is signed or made by one of such personal representatives. Signature of one personal representative sufficient.

16. Where a caution has been registered or re-registered under the authority of any enactment repealed and not re-enacted by this Act and is still in force, such caution shall have the same effect as if such enactment had not been repealed and may be registered in the manner provided by section 11. Effect of repealing enactment.

17. Any person beneficially entitled to any real property affected by the registration or re-registration of a caution, may apply to a Judge of the High Court to vacate such registration or re-registration, and the Judge, if satisfied that the vesting of any such real property in such person or of any property of the deceased in any other of the persons beneficially entitled ought not to be delayed may order that such registration or re-registration be vacated as to such property; and every caution, the registration or re-registration of which is so vacated, shall thereafter cease to operate. Vacating Caution.

18. Where real property becomes vested under this Act in two or more persons beneficially entitled under this Act, they shall take as tenants in common in proportion to their respective rights, unless in the case of a devise they take otherwise under the provisions of the will of the deceased. See R.S.O. 1897, c. 127, s. 56. Land vesting in two or more persons.

POWERS OF PERSONAL REPRESENTATIVE.

19.—(1) Where an infant is interested in real property which but for this Act would not devolve on the personal representative, no sale or conveyance shall be valid under this Act without the written approval of the Official Guardian appointed under *The Judicature Act*, or, in the absence of such consent or approval, without an order of a Judge of the High Court. Sales where infants interested. Rev. Stat. c. 51.

Local Guardians in outer counties.

(2) The Supreme Court may appoint the Local Judge of any county or district or the Local Master therein, as Local Guardian of Infants, in such county or district during the pleasure of the Court, with authority to give such written approval instead of the Official Guardian; and the Official Guardian and Local Guardian shall be subject to such rules as the Supreme Court may make in regard to their authority and duties under this Act. R.S.O. 1897, c. 127, s. 8.

Power of personal representative over real property.

20. Except as herein otherwise provided, the personal representative of a deceased person shall have power to dispose of and otherwise deal with the real property vested in him by virtue of this Act, with the like incidents, but subject to the like rights, equities, and obligations, as if the same were personal property vested in him. R.S.O. 1897, c. 127, s. 9; 2 Edw. VII., c. 17, s. 9.

Powers of executors and administrators as to selling and conveying real estate.

21.—(1) The powers of sale conferred by this Act on a personal representative may be exercised for the purpose not only of paying debts, but also of distributing or dividing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and in no case shall it be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only.

Concurrence of heirs and devisees.

(2) No sale of any such real property made for the purpose of distribution only shall be valid as respects any person beneficially entitled thereto unless he concurs therein: Provided always that where a lunatic is beneficially entitled or where there are other persons beneficially entitled whose consent to the sale is not obtained by reason of their place of residence being unknown or where in the opinion of the Official Guardian it would be inconvenient to require the concurrence of such persons, he may, upon proof satisfactory to him that such sale is in the interest and to the advantage of the estate of such deceased person and the persons beneficially interested therein, approve such sale on behalf of such lunatic and non-concurring persons, and any such sale made with the written approval of the Official Guardian shall be valid and binding upon such lunatic and non-concurring persons; and for this purpose the Official Guardian shall have the same powers and duties as he has in the case of infants; and provided also that in any case the High Court or a Judge thereof may dispense with the concurrence of the persons beneficially entitled or any or either of them.

Proviso as to lunatics and non-concurring heirs and devisees.

(3) The personal representative shall also have power with the concurrence of the adult persons beneficially entitled thereto, and with the written approval of the Official Guardian on behalf of infants or lunatics, if any, so entitled, to convey, divide or distribute the estate of the deceased person or any part thereof among the persons beneficially entitled thereto according to their respective shares and interests therein.

Powers of executors and administrators as to dividing estate among persons entitled.

(4) Upon the application of the personal representative or of any person beneficially entitled the High Court or a Judge thereof may before the expiration of three years from the death of the deceased, direct the personal representative to divide or distribute the estate or any part thereof to or among the persons beneficially entitled according to their respective rights and interests therein. *New.*

Court may order distribution within three years from death.

(5) The power of division conferred by subsection 3 may also be exercised, although all the persons beneficially interested do not concur, with the written approval of the Official Guardian, which may be given under the same conditions and with the like effect as in the case of a sale under subsection 2.

Exercise of power of division without concurrence.

(6) Where the Inspector of Prisons and Public Charities is the Statutory Committee under the provisions of Chapter 317 of the Revised Statutes of a lunatic beneficially entitled, it shall be the duty of the Official Guardian to notify the Inspector of any sale to which he has consented and he may by leave of the High Court or a Judge thereof pay to the Inspector the share of such lunatic or such part thereof as the Court or Judge may direct. *New.*

Where lunatic beneficially entitled.

(7) This section shall not apply to an administrator where the letters of administration are limited to the personal property, exclusive of the real property, and shall not derogate from any right possessed by a personal representative independently of this Act, but an executor shall not exercise the powers conferred by this section until he has obtained probate of the will unless with the approval of the High Court or a Judge thereof. 6 Edw. VII., c. 23, s. 3.

Section not to apply to administrators of personal estate only.

Provision as to executor who has not obtained probate.

22. The acceptance by an adult of his share of the purchase money in the case of a sale by a personal representative which has been made without the written approval of the Official Guardian, where such approval is required, shall be a confirmation of the sale as to him. 2 Edw. VII., c. 17, s. 7.

Effect of accepting share of purchase money.

23. A person purchasing in good faith and for value real property from the personal representative in manner authorized

Bona fide purchasers of estate to hold same free from debts.

authorized by this Act shall be entitled to hold the same freed and discharged from any debts or liabilities of the deceased owner except such as are specifically charged thereon otherwise than by his will, and from all claims of the persons beneficially entitled thereto, and shall not be bound to see to the application of the purchase money. R.S.O. 1897, c. 127, s. 19.

Bona fide purchasers of estate from devisees to hold same free from debts.

24.—(1) A person purchasing real property in good faith and for value from a person beneficially entitled, to whom it has been conveyed by the personal representative by leave of the High Court or a Judge thereof shall be entitled to hold the same freed and discharged from any debts and liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will; nothing in this section shall affect the rights of creditors as against the personal representative personally, or as against any person beneficially entitled to whom real property of a deceased owner has been conveyed by the personal representative. R.S.O. 1897, c. 127, s. 20.

Proviso.

Lands which vest in beneficiary under s. 13 to remain liable to debts.

(2) Real property which becomes vested in the person beneficially entitled thereto under section 13, shall continue to be liable to answer the debts of the deceased owner so long as it remains vested in such person or in any person claiming under him not being a purchaser in good faith and for valuable consideration, as it would have been if it had remained vested in the personal representative, and in the event of a sale thereof in good faith and for value by such person beneficially entitled he shall be personally liable for such debts to the extent of the proceeds of such real property. 2 Edw. VII., c. 1, s. 4.

Beneficiary to be personally liable for debts of deceased to extent of estate.

Powers of personal representative as to leasing and mortgaging.

25.—(1) The powers of a personal representative under this Act shall include

- (a) Power to lease from year to year while the real property remains vested in him.
- (b) Power with the approval of the High Court or a Judge thereof to lease for a longer term.
- (c) Power to mortgage for the payment of debts.

(2) The written approval of the Official Guardian to mortgaging shall be required where it would be required if the real property were being sold. 2 Edw. VII., c. 17, s. 5.

26.—(1) A purchaser in good faith and for value of real property of a deceased owner which has become vested under the provisions of section 13 in a person beneficially entitled thereto, shall be entitled to hold it freed and discharged from the claims of creditors of the deceased owner except such of them of which he had notice at the time of his purchase. 2 Edw. VII., c. 1, s. 5.

Rights of purchaser in good faith against claims of creditors.

(2) Nothing in subsection 1 shall affect the right of the creditor against the personal representative personally where he has permitted the real property to become vested in the person beneficially entitled to the prejudice of the creditor or against the person beneficially entitled. *New.*

DISTRIBUTION OF ASSETS.

27.—(1) An illegitimate child or relative shall not share under any of the provisions of this Act.

Effect of illegitimacy.

(2) A person born out of matrimony shall not become legitimate by the subsequent marriage of his parents. R.S.O. 1897, c. 127, s. 58, and c. 340, s. 1.

Advancement.

28.—(1) If any child of an intestate has been advanced by him by settlement or portion of real or personal property, or both, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal property of such intestate to be distributed under the provisions of this Act; and if such advancement is equal to or greater than the amount of the share which such child would be entitled to receive of the real and personal property of the deceased, as so reckoned, then such child and his descendants shall be excluded from any share in the real and personal property of the intestate. R.S.O. 1897, c. 127, s. 60.

Cases of children who have been advanced by settlement, etc.

(2) If such advancement is less than such share, such child and his descendants shall be entitled to so much only of the real and personal property as is sufficient to make all the shares of the children in such real and personal property and advancement to be equal, as nearly as can be estimated. R.S.O. 1897, c. 127, s. 61.

If such advancement be not equal.

(3) The value of any real or personal property so advanced shall be deemed to be that, if any, which has been acknowledged by the child by an instrument in writing; otherwise

Value of property advanced, how estimated.

otherwise such value shall be estimated according to the value of the property when given. R.S.O. 1897, c. 127, s. 62.

Education,
etc., not ad-
vancement.

(4) The maintaining or educating, or the giving of money to a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R.S.O. 1897, c. 127, s. 63.

Intestate Married Women.

Distribution
of property
of married
woman dying
intestate.

29.—(1) The personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate, shall be distributed as follows: One-third to her husband if she leaves issue, and one-half if she leaves no issue, and subject thereto shall devolve as if her husband had pre-deceased her. R.S.O. 1897, c. 127, s. 5.

Saving as to
husband's in-
terest in prop-
erty of wife.

(2) A husband who, if this Act had not been passed, would be entitled to an interest as tenant by the curtesy in real property of his wife, may by deed or instrument in writing executed, and attested by at least one witness, and delivered to the personal representative, if any, or if there is none, deposited in the office of the Surrogate Clerk at Toronto, within six months after his wife's death, elect to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed, in which case the husband's interest therein shall be ascertained in all respects as if this Act had not been passed, and he shall be entitled to no further interest thereunder. R.S.O. 1897, c. 127, s. 4, subsec. 3.

Distribution of Assets.

Distribution
of personal
estate.

30. Except as in this Act is otherwise provided, the personal property of a person dying intestate shall be distributed as follows, that is to say, one third to the wife of the intestate and all the residue by equal portions among the children of the intestate and such persons as legally represent such children in case any of them have died in his lifetime, and if there are no children or any legal representatives of them then one half of the personal property shall be allotted to the wife, and the residue thereof shall be distributed equally, to every of the next of kindred of the intestate who are of equal degree and those who legally represent them and for the purpose of this section the father and the mother and the brothers and sisters of the intestate shall be deemed of equal degree: but there shall be no representations admitted among collaterals after brothers' and sisters' children and if there is no wife then all such personal property shall be distributed equally among the children,

dren, and if there is no child then to the next of kindred in equal degree of or unto the intestate and their legal representatives and in no other manner. R.S.O. 1897, c. 335, ss. 2 and 3.

31. If after the death of a father any of his children die intestate without wife or children in the lifetime of the mother, every brother and sister and the representatives of them shall have an equal share with her, anything in section 30 to the contrary notwithstanding. R.S.O. 1897, c. 335, s. 5. Children share with mother.

32. Subject to provisions of section 38 of *The Trustee Act*, no such distribution shall be made until after one year from the death of the intestate, and every person to whom in distribution a share shall be allotted shall, if any debt owing by the intestate shall be afterwards sued for and recovered or otherwise duly made to appear, refund and pay back to the personal representative his rateable part of that debt and of the costs of suit and charges of the personal representative by reason of such debt out of the part or share so allotted to him, thereby to enable the personal representative to pay and satisfy such debt, and shall give bond with sufficient sureties that he will do so. R.S.O. 1897, c. 335, s. 4. Distribution not to be made for one year.

GENERAL PROVISIONS.

33.—(1) The Official Guardian may, with the approval of the Lieutenant-Governor in Council, or of the Judges of the Supreme Court, make Rules regulating the practice and procedure to be followed in all proceedings under this Act, in which his privity, consent or approval is required, and may frame a tariff of the fees to be allowed and paid to solicitors for services rendered in such proceedings. Rules of procedure.

(2) Such Rules and tariff when so approved shall be published in the *Ontario Gazette*, and shall thereupon have the force of law; and the same shall be laid before the Assembly at the next session after the publication thereof.

(3) The Lieutenant-Governor in Council may appoint a Deputy *pro tempore* of the Official Guardian for the purposes of this Act who shall have all the powers of the Official Guardian for such purposes. R.S.O. 1897, c. 127, s. 21. Appointment of Deputy Official Guardian pro tem.

34. Affidavits may be used in proceedings taken under this Act. R.S.O. 1897, c. 127, s. 21. Affidavits.

Repeal.

35. Chapter 127 of The Revised Statutes, except sections 22 to 58, are repealed, and Chapter 335 and section 1 of Chapter 340 of the Revised Statutes are also repealed.

FORM 1.

THE DEVOLUTION OF ESTATES ACT.

I, _____, executor of (or *administrator, with the will annexed of, or administrator of*) _____, who died on or about the _____ day of _____ 19____, certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (or *administrator*) to sell the real property or the said _____ or part thereof (*or the caution may specify any particular part or parcel*) and of this all persons concerned are hereby required to take notice.

FORM 2.

THE DEVOLUTION OF ESTATES ACT.

I, _____, executor (or *administrator*) of _____ hereby withdraw the caution heretofore registered with respect to the real property of _____ (*or as the case may be*).

FORM 3.

THE DEVOLUTION OF ESTATES ACT.

I, _____, of, etc., make oath and say I am well acquainted with _____ named in the above certificate; that I was present and did see the said certificate signed by the said _____; that I am a subscribing witness to the said certificate and I believe the said _____ is the person who registered the caution referred to in the said certificate.

Sworn, etc.

CHAPTER 57.

An Act respecting Wills

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	any interest remaining in testator, s. 26.
INTERPRETATION, s. 2.	Operation of wills from time of death of testator, s. 27.
WILLS BEFORE 1ST JANUARY, 1874, ss. 3-6.	Lapsed devise to sink into residuary devise, s. 28.
WILLS AFTER 1ST JANUARY, 1874. PRELIMINARY, ss. 7-9.	General devise what to include, ss. 29-31.
PROPERTY DISPOSABLE BY WILL, AND PERSONS WHO MAY DISPOSE BY WILL, ss. 10, 11.	Meaning of "heir" in a devise, s. 32.
EXECUTION OF WILLS, ss. 12-15.	"Die without issue," meaning of, s. 33.
Wills of soldiers and sailors, s. 14.	General devise to trustees, what estate to pass, ss. 34, 35.
Wills executed out of Ontario, s. 15.	Cases where devise does not lapse by death of a devisee, ss. 36, 37.
Witnesses being interested under the will not to invalidate, ss. 17-20.	Mortgage debts and charges primarily chargeable on land, s. 38.
REVOCATION OF WILLS, ss. 21-23.	REPEAL. s. 39.
OBLITERATIONS, INTERLINEATIONS, ETC., s. 24.	
REVIVAL. s. 25.	
CONSTRUCTION OF WILLS: Devise, etc., to operate upon	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Wills Act.*" R.S.O. Short title. 1897, c. 128, s. 1.

2. In this Act

Interpretation.

- (a) "Land" shall include messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any

any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency. R.S.O. 1897, c. 128, s. 2.

"Mortgage,"
Imp. Act, 30-
31 V. c. 69,
s. 2.

- (b) "Mortgage" shall include any lien for unpaid purchase money, and any charge, incumbrance, or obligation of any nature whatever upon any lands or tenements of a testator or intestate, and "mortgagee" shall have a meaning corresponding with that of mortgage;

"Personal
estate."

- (c) "Personal estate" shall include leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;

"Real
estate."

- (d) "Real estate" shall include messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and any undivided share thereof, and any estate, right, or interest (other than a chattel interest) therein;

"Will,"
Imp. Act, 1 V.
c. 26, s. 1.

- (e) "Will" shall include a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants' Act*, and any other testamentary disposition;. R.S.O. 1897, c. 128, s. 9.

R.S.O. c. 340,
s. 2.

WILLS BEFORE 1ST JANUARY, 1874.

Estate
acquired after
the making of
a will may
pass by the
will where
such intention
is expressed.

3. Where a will made before, and not re-executed, republished or revived after the first day of January, 1874, by any person dying after the sixth day of March, 1834, contains a devise in any form of words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will shall be valid and effectual to pass any land acquired by the deviser after the making of

such

such will, in the same manner as if the title thereto had been acquired before the making thereof. R.S.O. 1897, c. 128, s. 3.

4. Where land is devised in any such will it shall be considered that the deviser intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R.S.O. 1897, c. 128, s. 4.

A devise of land shall be taken to carry as large an estate as the testator had in the land, unless a contrary intention is expressed.

5. Any will affecting land executed after the sixth day of March, 1834, and before the first day of January, 1874, in the presence of and attested by two or more witnesses, shall have the same validity and effect as if executed in the presence of and attested by three witnesses; and it shall be sufficient if the witnesses subscribed their names in presence of each other, although their names were not subscribed in presence of the testator. R.S.O. 1897, c. 128, s. 5.

Witness need not subscribe in the presence of the testator.

6. After the fourth day of May, 1859, and before the first day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R.S.O. 1897, c. 128, s. 6.

Will by married woman between 4th May, 1859, and 1st January, 1874.

As to wills of married women made after 1st January, 1874, see R.S.O. c. 163, s. 3.

WILLS AFTER 1ST JANUARY, 1874.

7. Unless herein otherwise expressly provided, the subsequent sections of this Act shall not extend to any will made before the first day of January, 1874; but every will re-executed or re-published, or revived by any codicil, shall for the purposes of those sections, be deemed to have been made at the time at which the same was so re-executed, re-published or revived. R.S.O. 1897, c. 128, s. 7.

Operation of succeeding sections.

Imp. Act, 1 V. c. 26, s. 34.

8. Sections 22, 23, 26, and 27 shall not apply to the will of any person who died before the first day of January, 1869, but shall apply to the will of every person who died since

Application of sections 22, 23, 26 and 27.

the

the thirty-first day of December, 1868, or who dies after the passing of this Act. R.S.O. 1897, c. 128, s. 8.

10 Edw. VII.,
cc. 56, 46.

Power to dis-
pose of all
property.
Imp. Act, 1 V.
c. 26, s. 3.

Estates
pur autre vie.

Contingent
interests.

Rights of
entry.

Property
acquired after
the will.

9. Subject to the provisions of *The Devolution of Estates Act*, and of *The Accumulations Act*, every person may devise, bequeath, or dispose of by will executed in manner herein-after mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heirs or upon his executor or administrator; and the power hereby given shall extend to estates *pur autre vie*, whether there is or is not any special occupant thereof, and whether the same are corporeal or incorporeal hereditaments; and also to all contingent, executory, or other future interests in any real estate or personal estate, whether the testator is or is not ascertained as the person or one of the persons in whom the same may become vested, and whether he is entitled thereto under the instrument by which the same were created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real estate and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R.S.O. 1897, c. 128, s. 10.

Widow's
right to dis-
pose of crop.
20 Hy. 3,
St. of Mer-
ton) c. 2.

10. A widow may in like manner bequeath the crop of her ground as well of her dower as of other her real estate. R.S. O. 1897, c. 330, s. 8.

Wills by in-
fants invalid.
Imp. Act, 1 V.
c. 26, s. 7.

11. No will made by any person under the age of twenty-one years shall be valid. R.S.O. 1897, c. 128, s. 11.

Execution.
Imp. Act, 1 V.
c. 26, s. 9.

12.—(1) No will shall be valid unless it is in writing, and executed in manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator; but no form of attestation shall be necessary.

Attestation.

Signature.
Imp. Act 15-
16 V. c. 24,
s. 1.

(2) Every will, so far only as regards the position of the signature of the testator, or of the person so signing for him, shall be valid, within the meaning of this Act, if the signature is so placed, at, or after, or following or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by

such

such signature to the writing signed as his will; and no such will shall be affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature shall be operative to give effect to any disposition, or direction which is underneath, or which follows it, nor shall it give effect to any disposition or direction inserted after the signature was made. R.S.O. 1897, c. 128, s. 12.

13. No appointment made by will, in exercise of any power, shall be valid, unless the same is executed in manner hereinbefore required; and every will executed in manner hereinbefore required, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R.S.O. 1897, c. 128, s. 13.

Appointments by will how to be exercised. Imp. Act, 1 V. c. 26, s. 10.

14. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the passing of this Act. R.S.O. 1897, c. 128, s. 14.

Wills of personalty of soldiers and sailors. Imp. Act, 1 V. c. 26, s. 11.

15. Every will executed in manner hereinbefore required shall be valid without any other publication thereof. R.S.O. 1897, c. 128, s. 15.

Publication unnecessary. Imp. Act, 1 V. c. 26, s. 13.

16. If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will shall not on that account be invalid. R.S.O. 1897, c. 128, s. 16.

Will not invalid if witness incompetent. Imp. Act, 1 V. c. 26, s. 14.

Gifts, etc., to witness invalid.
Imp. Act, 1 V. c. 26, s. 15.

17. If any person attests the execution of any will, to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real estate or personal estate, other than and except charges and directions for the payment of any debt, is thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or such wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R.S.O. 1897, c. 128, s. 17.

Creditors competent witnesses.
Imp. Act, 1 V. c. 26, s. 16.

18. In case by any will any real estate or personal estate is charged with any debt, and any creditor, or the wife or husband of any creditor whose debt is so charged attests the execution of such will, such creditor, notwithstanding such charge, shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1897, c. 128, s. 18.

Executor competent witness.
Imp. Act, 1 V. c. 26, s. 17.

19. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1897, c. 128, s. 19.

Wills executed out of Ontario when to be valid.

20.—(1) Every will made out of Ontario by a British subject (whatever may be his domicile at the time of making the same or at the time of his death) shall as regards personal estate be held to be well executed for the purpose of being admitted to probate in Ontario, if the same was made according to the forms required either by the law of the place where the same was made, or by the law of the place where such person was domiciled when the same was made or by the law then in force in that part of His Majesty's Dominions where he had his domicile of origin.

Imp. Act, 24 and 25 V. c. 114.

Will of British subject made in Ontario wherever domiciled.

(2) Every will made within Ontario by a British subject whatever may be his domicile at the time of making the same or at the time of his death shall as regards personal estate be held to be well executed and shall be admitted to probate in Ontario if the same was made and executed according to the forms required by the law of Ontario.

Change of domicile not to revoke will.

(3) No will shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered

by

by reason of any subsequent change of domicile of the person making the same.

(4) Nothing in this section shall invalidate any will as regards personal estate which would have been valid if this section had not been passed except as such will may be revoked or altered by any subsequent will made valid by this section.

Wills not to be invalidated by Act.

(5) This section, except subsection 2, shall extend only to wills made by persons dying after the 17th day of March, 1902, and subsection 2 shall extend only to wills made by persons dying after that date. 2 Edw. VII. c. 18, ss. 3-6.

Application to wills of persons dying after 17th March, 1902.

21.—(1) Every will made by any person dying on or after the 13th day of April, 1897, shall be revoked by the marriage of the testator, except in the following cases:—

Revocation by marriage. Imp. Act, 1 V. c. 26, s. 18.

(a) Where it is declared in the will that the same is made in contemplation of such marriage;

Exceptions.

(b) Where the wife or husband of the testator elects to take under the will, by an instrument in writing signed by the wife or husband and filed within one year after the testator's death in the office of the Surrogate Clerk at Toronto;

(c) Where the will is made in the exercise of a power of appointment and the real estate or personal estate thereby appointed would not in default of such appointment pass to the testator's heirs, executor or administrator, or the person entitled as the testator's next of kin under *The Devolution of Estates Act*.

10 Edw. VII., c. 56.

(2) The will of any testator who died between the 31st day December, 1868, and the 13th day of April, 1897, shall be held to have been revoked by his subsequent marriage, unless such will was made under the circumstances set forth in clause (c). R.S.O. 1897, c. 128, s. 20.

22. No will shall be revoked by any presumption of an intention, on the ground of an alteration in circumstances. R.S.O. 1897, c. 128, s. 21. *See section 8 of this Act.*

No revocation by change in circumstances. Imp. Act, 1 V. c. 26, s. 19.

23. No will or any part thereof, shall be revoked otherwise than as aforesaid provided by section 21, or by another will executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator, or by some person in his presence and by his direction, with the intention of revoking

How only will can be revoked. Imp. Act, 1 V. c. 26, s. 20.

ing the same. R.S.O. 1897, c. 128, s. 22. *See section 8 of this Act.*

Obliterations,
interlinea-
tions, etc.
Imp. Act, 1 V.
c. 26, s. 21.

24. No obliteration, interlineation or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R.S.O. 1897, c. 128, s. 23.

Revival.
Imp. Act, 1 V.
c. 26, s. 22.

25. No will, or any part thereof, which has been in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and shewing an intention to revive the same; and where any will which has been partly revoked, and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shown. R.S.O. 1897, c. 128, s. 24.

No act as to
property
named in the
will to pre-
vent operation
of the will as
to any inter-
est left in
testator.
Imp. Act, 1 V.
c. 26, s. 23.

26. No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real estate or personal estate therein comprised, except an act by which such will is revoked as aforesaid, shall prevent the operation of the will with respect to such estate, or interest in such real estate or personal estate, as the testator had power to dispose of by will at the time of his death. R.S.O. 1897, c. 128, s. 25. *See section 8 of this Act.*

Will to speak
from death.
Imp. Act, 1 V.
c. 26, s. 24.

27.—(1) Every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will.

Imp. Act,
56-57 V. c.
68, s. 3.

(2) This section shall apply to the will of a married woman made during coverture, whether she is or is not possessed of or entitled to any separate property at the time of making it, and such will shall not require to be re-executed or re-published after the death of her husband. R.S.O. 1897, c. 128, s. 26. *See section 8 of this Act.*

Lapsed devise
to sink into
residuary
devise.
Imp. Act, 1 V.
c. 26, s. 25.

28. Unless a contrary intention appears by the will, such real estate as is comprised or intended to be comprised in any devise in such will contained which fails or becomes void

by

by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will. R.S.O. 1897, c. 128, s. 27.

29. A devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include his leasehold estates, or any of them to which such description will extend, as well as freehold estates, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 28.

Leaseholds, when they may pass under a general devise. Imp. Act, 1 V. c. 26, s. 26.

30. A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate or any real estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 29.

A general devise of realty or personalty to include property over which testator has a general power of appointment. Imp. Act, 1 V. c. 26, s. 27.

31. Where any real estate is devised to any person without any words of limitation, such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 30.

General devise to pass whole estate in the land devised. Imp. Act, 1 V. c. 26, s. 28.

10 Edw. VII., c. 56.

32. Where any real estate is devised by any testator, dying on or after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no contrary or other intention is signified by the will, the words "heir" or "heirs" shall be construed to mean the person or persons to whom the real estate of the testator or of such other person as the case may be would descend under the law of Ontario in case of an intestacy. R.S.O. 1897, c. 128, s. 31.

Meaning of "heir" in a devise of real estate.

Import of words "die without issue," or to that effect. Imp. Act, 1 V. c. 26, s. 29.

Sparks v. Woolfe, 25 Ont. App. Rep. p. 326 and 29 Sup. Court Repts. p. 585.

Proviso.

33. In any devise or bequest of real estate or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will, by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; but this Act shall not extend to cases where such words import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. R.S.O. 1897, c. 128, s. 32.

When devise to trustee or executor shall pass whole estate of testator. Imp. Act, 1 V. c. 26, s. 30.

34. Where any real estate is devised to a trustee or executor, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R.S.O. 1897, c. 128, s. 33.

When devise to a trustee shall pass the whole estate beyond what is requisite for the trust. Imp. Act, 1 V. c. 26, s. 31.

10 Edw. VII., c. 26.

35. Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R.S.O. 1897, c. 128, s. 34.

When devises of estate tail shall not lapse. Imp. Act, 1 V. c. 26, s. 32.

36. Where any person to whom any real estate is devised for an estate tail or an estate in *quasi* entail, dies in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 35.

37. Where any person, being a child or other issue of the testator, to whom any real estate or personal estate is devised or bequeathed for any estate or interest not determinable at or before the death of such person, dies in the lifetime of the testator, leaving issue, and any of the issue of such person are living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 36.

Gifts to issue who leave issue on testator's death, shall not lapse. Imp. Act, 1 V. c. 26, s. 33.

38.—(1) Where any person has died since the 31st day of December, 1865, or hereafter dies seised of or entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum of money by way of mortgage, and such person has not, by his will or deed or other document, signified any contrary or other intention, the heir or devisee to whom such real estate descends or is devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person; but the real estate so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof. R.S.O. 1897, c. 128, s. 37.

Mortgage debts to be primarily chargeable on the lands. Imp. Act, 17 V. c. 113 (1).

(2) In the construction of a will to which this section relates, a general direction that the debts or that all the debts of the testator shall be paid out of his personal estate, or a charge or direction for the payment of debts upon or out of residuary real estate and personal estate or residuary real estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in subsection 1 contained, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some of the testator's debts charged by way of mortgage on any part of his real estate. R.S.O. 1897, c. 128, s. 38. *Amended.*

Consequence of direction that testator's debts be paid out of personalty. Imp. Act, 30-31 V. c. 69, s. 1, and 40-41 V. c. 34, s. 1.

(3) Nothing herein shall affect or diminish any right of the mortgagee to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying, or otherwise; and nothing herein shall affect the rights of any person claiming under any will, deed, or document made before the first day of January, 1874. R.S.O. 1897, c. 128, s. 37 (2).

Proviso.

39. Chapter 128 and section 8 of chapter 330 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

CHAPTER 58.

An Act respecting Vendors and Purchasers and to simplify Titles.

Assented to 7th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Vendors and Purchasers Act.*" R.S.O. 1897, c. 134, s. 1.

Rights of vendors and purchasers in contracts of sale of lands.

2. In the completion of a contract of sale of land the rights and obligations of the vendor and the purchaser shall (subject to any stipulation in such contract to the contrary), be regulated by the following rules:—

Recitals, etc., 20 years old, of facts, etc., *prima facie* evidence.

(a) Recitals, statements and descriptions of facts, matters and parties contained in statutes, deeds, instruments or statutory declarations twenty years old at the date of the contract, unless and except in so far as they are proved to be inaccurate, shall be sufficient evidence of the truth of such facts, matters and descriptions:

Memorials of discharged mortgages.

(b) A registered memorial of a discharged mortgage shall be sufficient evidence of the mortgage without the production of the mortgage, unless and except in so far as such memorial is proved to be inaccurate; and the vendor shall not be bound to produce the mortgage unless it is in his possession or power;

Memorials 20 years old, when, and of what, evidence.

(c) A registered memorial twenty years old of any other instrument, if the memorial purports to be executed by the grantor, or in other cases if possession has been consistent with the registered title, shall be sufficient evidence without the production of the instrument to which the memorial relates, unless and except in so far as such memorial is proved to be inaccurate; and the vendor shall not be bound to produce the

original

original instrument unless it is in his possession or power; and the memorial shall be presumed to contain all the material contents of the instrument to which it relates;

- (d) The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, shall not be an objection to the title if the purchaser will, on the completion of the contract, have an equitable right to the production of such documents. Inability to furnish covenant to produce and furnish documents of title.
R.S.O. 1897, c. 134, s. 2.

3. In an action it shall not be necessary to produce any evidence which, by section 2, is dispensed with as between vendor and purchaser; and the evidence therein declared to be sufficient as between vendor and purchaser shall *prima facie* be sufficient for the purposes of such action. Evidence in actions. R.S.O. 1897, c. 134, s. 3.

4. A vendor or purchaser of real or leasehold estate or his representative may at any time and from time to time apply in a summary way to the High Court, or a Judge thereof, in respect of any requisition or objection, or any claim for compensation, or any other question arising out of or connected with the contract except a question affecting the existence or validity of the contract; and the Court or Judge may make such order upon the application as appears just, and may refer any question to a Master or other officer for enquiry and report. Summary applications to High Court in respect to requisitions, objections or compensation. etc. R.S.O. 1897, c. 134, s. 4.

5. Chapter 134 of the Revised Statutes of Ontario, 1897, Repealed. and all amendments thereto are repealed.

CHAPTER 59.

An Act for Quieting Titles to Real Estate.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

APPLICATION TO QUIET TITLES:

By whom may be made, ss. 2-4.

Form of, s. 5.

Evidence in support of, ss. 6-11.

Notices of, ss. 12-16.

Adverse claims, ss. 17, 18.

Costs, ss. 19, 20.

Withdrawal of application, s. 21.

Reference of petitions to Masters, etc., s. 22.

To be deemed subject to certain exceptions unless otherwise alleged, s. 23.

CERTIFICATE OF TITLE:

Judge may give one or more certificates, s. 24.

Form of, s. 25.

Registration of, s. 26.

Effect of, s. 27.

Copy of, to be evidence, s. 28.

QUIETING TITLES IN SALES BY COURT, s. 29.

QUIETING TITLES IN ACTIONS FOR SPECIFIC PERFORMANCE WHERE VENDOR IS TO HAVE AN INDEFEASIBLE TITLE, s. 30.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES, ss. 31, 32.

Effect of fraud in obtaining certificate, s. 33.

Re-investigation, s. 34.

APPEALS, s. 35.

MISCELLANEOUS:

Separate Court-book, s. 36.

Persons under disability, ss. 37, 38.

No objection that petitioner has not obtained possession, s. 39.

Proceedings not abated by death, etc., s. 40.

Nor to be void for want of form, s. 41.

Inspector of Titles, s. 42.

Powers of Inspector and Referee of Titles, ss. 43-45.

RULES UNDER THIS ACT, s. 46.

GENERAL RULES, s. 47.

REPEAL, s. 48.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Quieting Titles Act.*" R.S.O. 1897, c. 135, s. 1.

Owners, etc., in fee simple may obtain judicial investigation of title.

2. An owner of an estate in fee simple in land or a trustee for the sale of the fee simple shall be entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not, and whether his title is or is not subject to any charge or incumbrance. R.S.O. 1897, c. 135, s. 2.

3. Any other person who has any estate or interest in land may apply for the investigation of his title and a declaration of the validity thereof; but it shall be in the discretion of the Judge before whom the proceedings are taken to grant or refuse the application; and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the Judge in exercising such discretion shall be subject to appeal. R.S.O. 1897, c. 135, s. 3.

In case of any other estate; investigation to be discretionary with the Judge.

4. His Majesty's Attorney-General for Canada or His Majesty's Attorney-General for Ontario may apply for an investigation of the title of the Crown to any land and a declaration of the validity thereof, and the application may be made by information instead of petition, but in other respects the practice and procedure shall be the same as in ordinary cases. R.S.O. 1897, c. 135, s. 4.

Attorney-General may apply to quiet title to Crown Lands.

Procedure.

5. Every application shall be made to the High Court or a Judge thereof and, subject to the provisions of section 4, shall be by petition, Form 1. R.S.O. 1897, c. 135, s. 5.

Form of application and to whom.

6. The application shall be supported by the following particulars:

How the application must be supported.

(a) The title deeds (if any) and evidences of title in the possession or power of the applicant; R.S.O. 1897, c. 135, s. 7, par. 1.

Title deeds.

(b) Certified copies of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, up to the time of the granting of the certificate of title; R.S.O. 1897, c. 135, s. 7, par. 2; 6 Edw. VII. c. 19, s. 19 (2).

Registered instruments.

(c) An abstract of the title certified by the registrar of the registry division in which the land lies, unless the same be dispensed with in whole or in part;

Registrar's certificate.

(d) A concise statement of such facts as are necessary to make out the title, which do not appear in the produced documents; but no abstract of produced documents shall be required except on special grounds;

Statement of facts.

(e) Proof of any fact which is required to be proved in order to make out the title, and which is not established by the produced documents, unless the Judge dispenses with such proof until a future stage of the investigation;

Proof of facts.

(f)

Affidavit and certificate of counsel, etc.

- (f) An affidavit or deposition by the person whose title is to be investigated and a certificate of his counsel or solicitor, to the effect hereinafter mentioned, unless the Judge, for special reason, dispenses therewith;

Schedule of particulars produced.

- (g) A schedule of the particulars produced under this section. R.S.O. 1897, c. 135, s. 7, pars. 3-7.

What the affidavit or deposition of the applicant must state.

7.—(1) The affidavit or deposition of the person whose title is to be investigated shall state that to the best of his knowledge and belief he is the owner of the estate or interest claimed by the petitioner, subject only to the charges and incumbrances set forth in the petition or in a schedule thereto, or that there is no charge or incumbrance affecting the land; that the deeds and evidences of title which he produces, and of which a list is contained in the schedule produced under the next preceding section, are all the title deeds and evidences of title relating to the land in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein; or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any, except what he sets forth.

As to adverse claims of possession, etc.

As to petitioner's possession and other material facts.

(2) The affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title; and shall state that to the best of the deponent's knowledge, information and belief, the affidavit or deposition and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the same or any part thereof or give any right as against him.

In certain cases it may be dispensed with or made by another person.

(3) The affidavit or deposition may be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by one person, and as to part by another, in the discretion of the Judge to whom the application is made; and in such case the affidavit shall be modified accordingly. R.S.O. 1897, c. 135, s. 8.

What the certificate of counsel or solicitor must state.

8. The certificate of the counsel or solicitor shall state that he has investigated the title, and believes the petitioner to be the owner of the estate which he claims in the land, subject only to any charge or incumbrance set forth in the petition or in the schedule thereto, or that he so believes, subject to any condition, qualification or exemption set forth in the certificate; and that he has conferred with the deponent on the subject of the various matters set forth in the

the affidavit or deposition referred to in the next preceding two sections, and believes the affidavit or deposition to be true. R.S.O. 1897, c. 135, s. 9.

9.—(1) The Judge in investigating the title may receive and act upon any evidence that is received by the High Court on a question of title, and any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law or according to the practice of conveyancers, if the same satisfies the Judge of the truth of the facts intended to be established thereby.

On what evidence Judge may proceed.

(2) It shall not be necessary to produce any evidence which by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents or instruments, unless the Judge otherwise directs. R.S.O. 1897, c. 135, s. 10.

Evidence in proceedings to quiet titles. 10 Edw. VII., c. 58.

(3) The proof may be by affidavit or certificate; or may be given orally; or in any other manner or form satisfactory to the Judge. R.S.O. 1897, c. 125, s. 11.

Form of proofs.

10. Before a certificate of title is granted satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments for which the land is liable have been paid, or that all, except those for the current year, have been paid. R.S.O. 1897, c. 135, s. 12.

Taxes must have been paid except for current year.

11. If the Judge is not satisfied with the evidence of title produced in the first instance he shall give a reasonable opportunity to produce further evidence or to remove defects in the evidence produced. R.S.O. 1897, c. 135, s. 13.

Further proof if Judge not satisfied.

12.—(1) Except as hereinafter provided, before a certificate of title is granted or a conveyance is made under this Act, the Judge shall direct to be published in the *Ontario Gazette*, and if he sees fit in one or more newspapers, and in such form, and for such period as he deems expedient, a notice either of the application having been made, or of the order or decision of the Judge thereon, and the notice shall state the time within which adverse claims may be filed; and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Judge may appoint.

Judge to order notice to be published.

Notice of application where land is valued at not more than \$3,000.

(2) Where the value of the land is proved to the satisfaction of the Judge to be not more than \$3,000, he may dispense with the publication of the notice and in lieu thereof may direct that for such period as he may think fit a printed or type-written notice of the application, or of the order or decision of the Judge thereon, be posted up in one or more conspicuous places on the land, and in such other place, if any, as he may think fit; and the certificate or conveyance shall not be signed or executed until the period limited by such notice for filing adverse claims shall have expired. R.S.O. 1897, c. 135, s. 14.

Judge may grant certificate without further notice.

13. Where the Judge is satisfied respecting the title, and considers that the certificate of title can safely be granted or the conveyance can be safely executed without any other notice of application than the published or posted notice, he may grant the certificate or direct the execution of the conveyance. R.S.O. 1897, c. 135, s. 15.

Notice to adverse claimant

14. Where it appears that there is any person who may have a claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the Judge shall direct such notice as he deems necessary to be mailed to or served on such person, his agent or solicitor. R.S.O. 1897, c. 135, s. 16.

Appointment of guardian *ad litem*.

15.—(1) Where it appears that any persons who will become the heirs of a living person or that any person not *in esse* may be interested in opposing the claim of the petitioners, the Judge may appoint a guardian *ad litem* to represent them and they shall be bound by the adjudication.

(2) The Judge may order that the costs of the guardian *ad litem* be paid by the petitioner.

(3) Unless the Judge otherwise directs, the official guardian shall be appointed guardian *ad litem*.

Further publication or service of notice.

16. Before granting the certificate or directing the execution of the conveyance the Judge may require any further publication to take place, or any other notice to be mailed or served which he deems necessary. R.S.O. 1897, c. 135, s. 17.

Adverse claimants to file statements.

17.—(1) Any person having an adverse claim, or a claim not recognized in the petition may at any time before the certificate is granted or the conveyance is executed, file and serve on the petitioner, his solicitor or agent, a statement of his claim, Form 2.

Verification.

(2) The claim shall be verified by an affidavit to be filed therewith. R.S.O. 1897, c. 135, s. 18.

18. In case of a contest, the Judge may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to a Divisional Court, or may direct any mode of investigation which he deems expedient, and may defer granting the certificate or directing the execution of the conveyance. R.S.O. 1897, c. 135, s. 19.

In case of contest, Judge may decide or refer the case.

19. The Judge may at any stage of the proceeding order security for costs to be given by the petitioner, or by any person making an adverse claim. - R.S.O. 1897, c. 135, s. 20.

Security for costs.

20. The Judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any party to any proceeding, and may give directions as to the fund out of which any costs shall be paid. R.S.O. 1897, c. 135, s. 21.

Payment of costs.

21. The petitioner may by leave of the Judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by any adverse claimant. R.S.O. 1897, c. 135, s. 22.

Withdrawal of application.

22. Subject to Rules of Court, the Judge may refer a petition or any question arising in the course of any proceeding thereon to any referee of titles or other officer of the Court, or to counsel named by the Judge, who shall proceed as the Judge himself should do, had the reference not been made, and shall have all the powers of the Judge, except the power to grant the certificate or to direct the execution of the conveyance. R.S.O. 1897, c. 135, s. 23.

Petition may be referred to Master or counsel.

23.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications, unless the petition expressly states the contrary:

Claims of title to be presumed to be made with certain exceptions.

- (a) The reservations (if any) contained in the original grant from the Crown;
- (b) Any municipal charges, rates or assessments theretofore imposed for local improvements, and not yet due and payable;
- (c) Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land;

(d)

- (d) Any lease or agreement for a lease, for a period yet to run, not exceeding three years, where there is actual occupation under the same;
- (e) Any public highway, right of way, water-course and right of water, and other easement;
- (f) Any right of the wife or husband of the petitioner to dower or curtesy.

But claim may
be without
exceptions.

(2) If the petitioner desires the certificate to declare the title to be free from such exceptions or qualifications, or any of them, the petition shall so state, and the investigation shall proceed accordingly, but this subsection shall not apply to the exception or qualification as to a public highway. R.S.O. 1897, c. 135, s. 25.

CERTIFICATE OF TITLE.

One certificate
or several.

24. The Judge may give one certificate of title comprising all the land mentioned in the petition, or may give separate certificates as to separate parts of the land. R.S.O. 1897, c. 135, s. 26.

Form of certi-
ficate of title.

25. The certificate of title, Form 3, shall be under the seal of the Court and shall be signed by a Judge and, where the proceedings on the petition are conducted in Toronto, by the Referee of Titles and in other cases by the Inspector of Titles and shall also be signed by the Clerk of Records and Writs of the High Court, and the same and the schedule (if any) thereto or a duplicate or counterpart of the same shall be registered in full both in the High Court and in the registry office of the registry division where the land lies, without any further proof thereof. R.S.O. 1897, c. 135, s. 27; 6 Edw. VII. c. 19, s. 19 (3).

Registration
of certificate.

26. A certificate of the registration in the High Court may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus:

"Registered in	19	Book
Page	,	
	A.H.,	

Clerk of Records and Writs (*or as the case may be*).

and a memorandum or certificate so signed shall be evidence of the registration mentioned therein. R.S.O. 1897, c. 135, s. 28.

Effect of cer-
tificate of title.

27. The certificate of title sealed, signed and registered as required by section 25 shall be conclusive and the title therein mentioned shall be deemed absolute and indefeasible
on

on and from the date of the certificate, as regards His Majesty and all persons whomsoever, subject only to any charges or incumbrances, exceptions or qualifications mentioned therein or in the schedule thereto, and shall be conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given and done before the granting of the certificate, has been made, given and done by the proper person. R.S.O. 1897, c. 135, s. 29.

28. After a certificate of title is registered, a copy thereof purporting to be signed and certified as a copy by the Clerk of Records and Writs, or by the Registrar of the registry division in which the land lies, shall be admissible evidence of the certificate for all purposes without further evidence of such copy, and without accounting for the non-production of the certificate. R.S.O. 1897, c. 135, s. 30.

Certified copy
of certificate
to be evidence.

29. In case of a sale by the High Court the Court may investigate the title with a view to granting an indefeasible title, and in that case, a conveyance, Form 4, executed to the purchaser, under the seal of the Court and purporting to be under the authority of this Act, shall have the same effect as a certificate. R.S.O. 1897, c. 135, s. 31.

Conveyance
by the Court
in case of sale.

30. Where judgment is given for the specific performance of a contract for the sale of land and it is provided by the contract that the vendor shall give an indefeasible title, the Court may make the like investigation, and the conveyance may be according to Form 4. R.S.O. 1897, c. 135, s. 32.

Where an in-
defeasible
title is con-
tracted for.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES.

31. Where a person domiciled or claiming land in Ontario desires to establish that he is the legitimate child of his parents, or that the marriage of his father or mother or of his grandfather and grandmother was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir or one of the heirs of any person deceased, or that he is a natural born subject of His Majesty, he may, if the Court thinks fit, have any of such matters judicially investigated and declared. R.S.O. 1897, c. 135, s. 33.

Right to judi-
cial investiga-
tion of some
fact which
may affect a
title.

32.—(1) The application shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition, and stating that his claim is not disputed or questioned by any person; or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any dispute

Application.
How the peti-
tion must be
supported.

pute

pute or question except what he has set forth, and stating such other facts as may satisfy the Court of the propriety of proceeding with the investigation. R.S.O. 1897, c. 135, ss. 34 and 35.

Investigation,
proof, etc., in
such case.

(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 2, and the certificate granted on the investigation shall be registered in the same way, and may be proved by the like evidence, as in the case of a certificate granted under section 13. R.S.O. 1897, c. 135, s. 36.

Effect of cer-
tificate.

(3) The certificate when registered shall be conclusive and indefeasible in favour of the person to whom the same was granted and all persons claiming by, from, through or under him as regards His Majesty and all persons whomsoever and shall be *prima facie* evidence in favour of all other persons as against His Majesty and all persons whomsoever of the truth of the fact therein declared. R.S.O. 1897, c. 135, s. 37.

EFFECT OF FRAUD IN OBTAINING CERTIFICATE.

Certificate
obtained by
fraud.

33. If in the course of any proceeding any person acting either as principal or agent, knowingly and with intent to deceive, makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding, or concealing from the Court of any material document, fact or matter of information, any certificate or conveyance obtained by means of such fraud or falsehood, shall be null and void except as against a purchaser for valuable consideration without notice. R.S.O. 1897, c. 135, s. 47.

RE-INVESTIGATION.

Re-investiga-
tion at the in-
stance of any
party ag-
grieved.

34.—(1) After a certificate is granted or a conveyance is executed any person aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, by leave of the Court or a Judge, have the title or claim re-investigated on such terms as may be deemed just. R.S.O. 1897, c. 135, s. 41.

(2) A certificate of the presentation of the petition shall be registered in the proper registry office.

But those who
have purchas-
ed, etc., in the
meantime not
to be affected.

(3) No proceeding on such petition shall affect the title of any person who, after the date of the certificate or conveyance under this Act and before the registration of the

certificate

certificate of the presentation of the petition, has acquired, by sale, mortgage or contract, for valuable consideration, any estate or interest in the land described in the certificate or conveyance or, if the certificate was granted under section 31, in any land or other property, the title to which was derived from, through or under the person named in the certificate, in the character which is thereby declared to belong to him. R.S.O. 1897, c. 135, s. 42.

(4) The Court or Judge may make such order on the petition as he may deem just having regard to the provisions of the next preceding subsection and of section 33.

APPEALS.

35. An appeal shall lie from an order or decision of ^{Appeals.} a Judge under this Act to a Divisional Court, or to the Court of Appeal, and from the order or decision of the Divisional Court to the Court of Appeal in the same manner and subject to the same restrictions as in the case of an appeal from a judgment or order of the High Court in an action. R.S.O. 1897, c. 135, s. 38.

MISCELLANEOUS.

36. A separate book shall be kept in the High Court for the registration of certificates and conveyances under this Act, and the certificates and conveyances registered therein shall be numbered in order, and an index to the book shall be kept in such form as the Court may direct. R.S.O. 1897, c. 135, s. 39. ^{Register to be kept.}

37. Where any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is an infant, an idiot or a lunatic, the guardian of the infant, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, and shall otherwise represent such person for the purposes of this Act; and if the infant has no guardian, or the idiot or lunatic no committee of his estate the Court or Judge may appoint a person with like power to act for the infant, idiot or lunatic. R.S.O. 1897, c. 135, s. 40, *part*. ^{Where any party is a minor, lunatic, etc.}

38. A married woman shall, for the purposes of this Act, be deemed a *feme sole*. R.S.O. 1897, c. 135, s. 40, *part*. ^{Married women.}

No objection to proceeding to establish title that petitioner should first have brought an action.

39. No objection to a petition shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land, he may obtain an order against any other party to the proceeding for the delivery of possession thereof. R.S.O. 1897, c. 135, s. 43.

Proceedings not abated by certain events.

40. Proceedings shall not abate or be suspended by any death or transmission or change of interest, but in any such event the Court or a Judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto, as may seem just. R.S.O. 1897, c. 135, s. 44.

Proceedings not void for want of form.

41. No petition, order, affidavit, certificate, registration or other proceeding shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1897, c. 135, s. 45.

Inspector of Titles.

42.—(1) There shall be an Inspector of Titles, who shall supervise the work of the Local Referees of Titles.

(2) Such officer of the High Court as shall have been or may be designated for that purpose by Rule of Court shall be the Inspector of Titles. *New.*

Referees of Titles.

43. Every Local Master shall be Local Referee of Titles and the Inspector of Titles shall be the Referee of Titles where the proceedings under the petition are to be conducted at Toronto.

Powers of inspector and Referees.

44. The Inspector of Titles, the Referee of Titles and every Local Referee of Titles in respect of the petition and the proceedings thereunder shall have the like powers as the Master in Chambers. *New.*

Powers of Referee of Titles.

45. The Referee of Titles and every Local Referee of Titles shall have the same powers as a Judge of the High Court within the limits prescribed by the Rules.

Application of Judicature Act.
Rev. Stat. c. 51

46. Subject to Rules of Court, unless where otherwise provided, the practice and procedure under *The Judicature Act* and Rules made thereunder shall apply to proceedings under this Act. *New.*

Court may make General Rules for carrying out this Act.

47.—(1) The Judges authorized under *The Judicature Act* may make Rules for referring petitions under this Act to any Referee of Titles or other officer of the Court, or to any counsel or other person and may regulate the fees to be paid on such references.

(2) The Judges may also make Rules for the purposes of and for regulating the practice or procedure under this Act notwithstanding that the practice or procedure prescribed by this Act may be thereby varied. R.S.O. 1897, c. 135, s. 50.

48. Chapter 135 of the Revised Statutes, 1897, and all ^{Repeal.} amendments thereto are repealed.

FORM 1.

PETITION TO QUIET A TITLE.

In the High Court of Justice.

In the matter of *(the East half of lot No. in the
Concession of the Township of or as the case may be,
briefly describing the property).*

To the Honourable the Judges of the High Court of Justice for Ontario.

The Petitioner of. of
SHEWETH,—

That your Petitioner is absolute owner in fee simple in possession (*or as the case may be*) of the following land (*describing it*).

That there is no charge or other incumbrance affecting your Petitioner's title to the said land, (except, *etc.*, or that your Petitioner's title is subject only to the charges or incumbrances in the Schedule hereto mentioned, and that the only persons having or claiming any charge, incumbrance, estate, right or interest in the said land are set forth in the Schedule hereto annexed, and that the charge, incumbrance, estate, right or interest belonging to or claimed by each is therein set forth.) Your Petitioner therefore prays that his title to the said land may be investigated and declared under *The Quieting Titles Act*.

(Signed) A.B.,

or

C.D., Solicitor for A.B.

R.S.O. 1897, c. 135, Sched. Form 1.

FORM 2.

ADVERSE CLAIM.

In the High Court of Justice.

In the matter of, *etc.*, (*as in petition*).

G.H., of, *etc.*, claims to be the owner of the said land [*or as the case may be (stating briefly the nature and the grounds of the claim)*].

Dated this day of , 19 .

(Signed) G.H.,

or

E.F., Solicitor for G.H.

R.S.O. 1897, c. 135, Sched. Form 3.

FORM 3.

CERTIFICATE.

In the High Court of Justice.

No.

These are to certify under the authority of *The Quieting Titles Act*, that A.B., of , is the legal and beneficial owner in fee simple in possession (or as the case may be) of all, etc. (*here describe the land*) subject to the exceptions and qualifications mentioned in section 22 of the said Act (or as the case may be), and to (*specifying either by reference to a schedule or otherwise any of the charges or incumbrances, exceptions or qualifications to which the title of A.B. is subject*), but free from all other rights, interests, claims and demands whatever.
 [Or that (*stating the facts found and declared under section 31, and stating on whose application the same are declared*)].

In witness whereof
 the Division, or one of the Justices) of the said Court has hereunto set his hand, and the seal of the said Court has been hereunto affixed, this day of , 19 .

G.S.H.,
 Inspector (or Referee) of Titles.

J.A.B. [L.S.]

R.S.O. 1897, c. 135, Sched. Form 4.

FORM 4.

CONVEYANCE BY HIGH COURT.

No.

The High Court of Justice for Ontario, under the authority of *The Quieting Titles Act*, doth hereby grant unto A.B., of [*here describe the land sold*] to hold the same unto the said in fee simple (or as the case may be), subject to [*here specify as in the case of a certificate of title*].

In witness whereof
 the Division, or one of the Justices of the said Court) has hereunto set his hand, and the seal of the High Court has been hereunto affixed, this day of , 19 .

G.S.H.,
 Registrar.

J.A.B. [L.S.]

R.S.O. 1897, c. 135, Sched. Form 5.

CHAPTER 60.

An Act respecting the Registration of Instruments
Relating to Lands.*Assented to 19th March, 1910.***SHORT TITLE, s 1.****INTERPRETATION, ss. 2, 61, (6).****APPLICATION OF LAND TITLES ACT,**
s. 4.Land in Provisional Judicial
Districts, s. 5.**REGISTRY DIVISIONS, ss. 5-7.****REGISTRARS AND DEPUTIES:**Appointment, security of, etc.,
ss. 8-16.

Duties, ss. 17-22.

BOOKS OF OFFICE—To be furnished by County,
ss. 23-25.Transfer of, upon alteration in
limits of the Registry Di-
vision or removal of Regis-
trar, ss. 26, 27.Copies of, when too old for
use, ss. 28-30.**ABSTRACT INDEX, s. 31.****ALPHABETICAL INDEX, s. 32.****INSTRUMENTS THAT MAY BE RE-**
GISTERED, ss. 33, 34.**PROOF FOR REGISTRATION, ss. 35-45.**WHERE IN FOREIGN LANGUAGE, s.
46.**MANNER OF REGISTRATION, ss. 47-**
53.**REGISTRATION OF—**

Crown grants, s. 54.

Orders in Council, s. 55.

Wills, s. 56.

Letters of Administration, s.
57.Notice of sale under mortgage,
s. 58.Instruments executed before
1st Jan., 1866, ss. 59, 60.**REGISTRATION OF INSTRUMENTS**
IN FULL WHEN MEMORIALS
PREVIOUSLY REGISTERED, s. 61.**DISCHARGES OF MORTGAGES, ss.**
62-67.**DISCHARGE OF LIEN NOTES, s. 68.****BY-LAWS, ETC., OPENING ROADS OR**
CHANGING MUNICIPAL LIMITS
s. 69.**REGISTRATION AND ITS EFFECT, ss.**
70-73.Unregistered instruments after
grant from the Crown void
against subsequent register-
ed purchaser, s. 70.

Actual notice, s. 71.

Equitable liens invalid as
against registered instru-
ments; Tacking not allowed
as against registered in-
struments, s. 72.Subsequent advances on mort-
gages, s. 73.

Registry to be notice, s. 74.

Powers of Attorney, s. 75.

Wills to be registered within
twelve months after death, s.
76.

Deeds on sales for taxes, s. 77.

Unauthorized alterations in en-
tries, s. 78.When instrument to be deemed
to be registered, s. 79.**REGISTRATION OF PLANS, ss. 80-88.****PROVISIONS FOR RE-REGISTRATION IN**
CASE OF LOSS, ETC., OF REGISTRY
BOOKS, s. 89.**DEFECTS IN REGISTRATION, s. 90.****FEES OF REGISTRARS, ss. 91-110.****INSPECTOR OF REGISTRY OFFICES,**
ss. 111-114.**PENALTY FOR ALTERING BOOKS OR**
DOCUMENTS, s. 115.**INSTRUMENTS AFFECTING LAND IN**
FORMER CITY OF WEST
TORONTO TO BE REGISTERED IN
EAST AND WEST YORK, s. 116.**REPEAL, s. 117.****COMMENCEMENT OF ACT, s. 118.**

HIS

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Registry Act*," R.S.O. 1897, c. 136, s. 1.

Interpretation.

2. In this Act,

"Certificate of amalgamation of loan corporations."

(a) "Certificates of Amalgamation of Loan Corporations" shall include a copy certified under the hand of the Registrar of Loan Corporations of the certificate of assent and declaration referred to in section 45 of *The Loan Corporations Act* and of any document mentioned in such certificate and a certificate issued for the purpose of registration under any Act of the Legislature authorizing or ratifying an agreement for the purchase and sale of the assets, or for the amalgamation of loan corporations. 63 V., c. 19, s. 3, *part*.

"County."

(b) "County" shall include a city, a Provisional Judicial District and any part of a county, district or city set apart for judicial or registration purposes.

"Inspector."

(c) "Inspector" shall mean the Inspector of Registry Offices.

"Instrument."

(d) "Instrument" shall include every Crown grant, and Order in Council of the Dominion and of Ontario, every deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney, under which any such instrument is executed, every bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any Court, judgment or order of foreclosure, and every other certificate of judgment or order of any Court affecting any interest in or title to land, and certificate of amalgamation of loan corporations, every certificate of payment of taxes, granted under the corporate seal of the county, city, or town by the treasurer, every sheriff's and treasurers's deed of land sold by virtue of his office, every contract in writing, every order and proceeding in lunacy, bankruptcy and insolvency, every plan of a survey or subdivision of land, and every other instrument whereby land may

may be transferred, disposed of, charged, incumbered or affected in any wise, affecting land in Ontario.

- (e) "Land" shall include lands, tenements, hereditaments and appurtenances and any estate or interest therein. "Land."
- (f) "Power of Attorney" shall include a revocation or alteration thereof and an appointment of a substitute thereunder. "Power of Attorney." 7 Edw. VII., c. 29, s. 4.
- (g) "Will" shall include codicil, probate of will and exemplification, and notarial or prothonotarial copy of a will, or of a probate of a will, and letters of administration with the will annexed, and a devise whereby land is disposed of or affected. R.S.O. 1897, c. 136, s. 2.

3. Subject to the provisions of *The Land Titles Act*, after a certificate of the first registration of the owner under that Act has been registered as prescribed by that Act, this Act shall cease to apply to the land mentioned in the certificate. Application of Land Titles Act.
See R.S.O. 1897, c. 138, s. 18. Rev. Stat., c. 138.

4. No instrument affecting land in a Provisional Judicial District which has been patented since 31st December, 1887, or which shall hereafter be patented shall be registered under this Act. *See R.S.O. 1897, c. 109, s. 76 (1).* Land in Provisional Judicial District.

5.—(1) The registry divisions now existing, as set forth in Schedule "A," shall be continued. Registry Divisions and Registry offices.

(2) Where a new county or district is formed the same shall constitute a registry division.

(3) Where a registry division includes the whole or part of the county or district town the registry office shall be situate therein and in other cases shall be situate at such place as the Lieutenant-Governor in Council shall direct.

(4) Where a registry office is in the opinion of the Lieutenant-Governor in Council inconveniently or unsafely situated, he may direct that a new registry office be erected on a new site to be approved by him. R.S.O. 1897, c. 136, ss. 3 and 8.

6. In the case of the City of Toronto the instruments mentioned in subsection 6 of section 23 shall be registered in the registry division of West Toronto. General Register for City of Toronto. R.S.O. 1897, c. 136, s. 7.

County Councils to provide fire-proof offices and vaults.

7.—(1) For the safe-keeping and protection of all books, memorials, duplicates, and other instruments of whatever description and plans belonging to the office of Registrar, the council of every county where, at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where hereafter any registry office is established, or where under the provisions of section 5 the Lieutenant-Governor in Council has directed a change of site, shall provide, furnish, maintain and keep in good repair a safe and fire-proof registry office, fire-proof vaulted, upon a plan and on a site to be approved by the Lieutenant-Governor in Council; and the council shall keep the registry office furnished with fuel and furniture and in good repair and properly heated, lighted, cleaned and ventilated.

(2) A town separated from a county for municipal purposes, and a city for which there is no separate registry office, shall bear such equitable proportion of the expense incurred under subsection 1 as the inspector shall direct. R.S.O. 1897, c. 136, s. 9; 1 Edw. VII., c. 15, s. 3. *Amended.*

Registrar to provide for vaults, etc., when directed by Inspector.

(3) Except where in this Act it is otherwise provided, the Inspector may in writing authorize the registrar, under the direction of an architect named by the Inspector to expend out of the proportion of the fees to which the county or city may then or thereafter be entitled under sections 104 and 106, in providing adequate fire-proof or metal fittings for the vault of the registry office or for the proper heating and ventilation of the vault so much as may be deemed by the Inspector to be necessary, and the amount so expended, including the architect's charge, shall be certified by the Inspector, and his certificate or a duplicate thereof shall be transmitted by the registrar, to the treasurer of the county or city, and shall be a discharge to the registrar of the amount so certified, as against the proportion of the fees then payable or to become thereafter payable by him. 1 Edw. VII., c. 15, s. 1; 7 Edw. VII., c. 29, s. 19.

Municipality may provide typewriting machines.

(4) The Corporation of any county or city charged with the duty of providing books for use in a registry office may provide typewriting machines for use in copying instruments in the registry books. *New.*

REGISTRARS.

Registrars, how appointed, etc.

8. There shall be a registrar for every registry division who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1897, c. 136, ss. 10 and 11.

Registrar's seal.

9. Every registrar shall have a seal of office to be approved of by the Inspector. R.S.O. 1897, c. 136, s. 28, *part.*

10.—(1) The Lieutenant-Governor in Council may fix ^{Amount of security to be given.} and determine the amount of the security to be furnished by each registrar.

(2) The amount of such security shall, except in the case of a registrar in a Provisional judicial district, be not less than \$4,000, nor more than \$10,000. R.S.O. 1897, c. 136, s. 12.

11. The Lieutenant-Governor in Council, upon the application of any county or city interested, or without such application, may require any registrar to furnish additional security in such form and for such an amount as the Lieutenant-Governor in Council determines to be sufficient to secure the due payment of any moneys payable by the registrar to the county or city. R.S.O. 1897, c. 136, s. 17. ^{Lieutenant-Governor may require Registrars to give security.}

12. The registrar and his sureties shall be jointly and severally liable upon and to the extent of the security furnished to any aggrieved person to indemnify him against any damage or loss sustained by him, by or through the neglect or misconduct of the registrar or his deputy in the performance of the duties of his office, but this provision shall not exempt the registrar from any further responsibility to a person sustaining such damage or loss. R.S.O. 1897, c. 136, s. 19. ^{Liability of registrars and their sureties.}

13. Every registrar, before he enters upon the duties of his office shall take and subscribe the oath, Form 1, which shall be transmitted by him to the Provincial Secretary. R.S.O. 1897, c. 136, s. 20. ^{Registrar's oath of office.}

14.—(1) The registrar may by writing under his hand and seal of office, appoint a deputy or deputies, who may perform all the duties required under this Act in the same manner and to the like effect as if done by the registrar. ^{Appointment of deputies.}

(2) In case of the death, resignation, removal from or forfeiture of office of the registrar, the deputy registrar, or if more than one, the senior deputy registrar, shall do and perform all and every act, matter, and thing necessary for the due execution of the office, until a new appointment of registrar is made, and if there is no deputy registrar the Crown Attorney shall be the registrar *pro tempore* until another person is appointed and the Crown Attorney on becoming registrar may appoint a deputy registrar. ^{Power of deputy in case of death or removal of registrar.}

(3) The registrar *pro tempore* shall be answerable for the execution of the office during such interval, and any security ^{Temporary officer to be responsible.}

ity given by the registrar shall be and stand as security for the due and faithful performance of the duties of his office by the registrar *pro tempore*. R.S.O. 1897, c. 136, s. 21.

Deputy's oath
of office.

15. Every deputy registrar before he enters on the duties of his office, shall take and subscribe the oath appointed to be taken by the registrar, or an oath to the like effect, which oath he shall forthwith transmit to the Provincial Secretary. R.S.O. 1897, c. 136, s. 22.

Registrars or
deputies, etc.,
not to act as
agents for
persons tak-
ing securities
on real estate,
or in selling
land, or
advise as to
titles, etc., in
their Counties.

16.—(1) No registrar or deputy registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation, or person investing money and taking security on land within his county, nor advise, for fee or other reward, or otherwise, upon titles to land, or practise as a conveyancer, or act as an agent for the sale of land, within his county, nor, subject to the provisions of subsection 4, shall he carry on or transact within the registry office, any other business or occupation whatever.

(2) No registrar, deputy registrar or clerk in a registry office shall take any proceeding under a power of sale in a mortgage or other instrument affecting land, nor shall he personally or as a member of a firm carry on a loaning business or be in any way connected with a firm which transacts any business with the office of the registrar.

(3) No registrar, deputy registrar or clerk in a registry office shall practise as a barrister, solicitor, physician or surgeon.

(4) Subsection 3 shall not apply to registrars appointed before the 27th day of May, 1893, but a registrar appointed before that date whose annual net income from his office exceeds \$1,000 shall not carry on practice as a physician or surgeon during office hours other than a consulting practice, or out of office hours other than a consulting or office practice at his home. R.S.O. 1897, c. 136, s. 23.

DUTIES OF REGISTRARS.

Work in reg-
istry office to
be personally
supervised by
registrar.

17. The registrar shall reside within ten miles of his office, and the work of the office shall be conducted and carried on under the direction and immediate supervision of the registrar. R.S.O. 1897, c. 136, s. 23 (3) and 24.

Hours of
attendance at
office.

18.—(1) Except as hereinafter in this section provided the registrar or his deputy shall attend at his office from the hour of ten o'clock in the forenoon until four o'clock in the afternoon, every day in the year, holidays excepted.
and

and no instrument shall be registered on any holiday nor shall any instrument be received for registration except within the hours above named.

(2) The registrars for the East Division of the City of Toronto, the West Division of the City of Toronto, the Registry Division of East and West York, the County of Wentworth, the County of Carleton, the City of Ottawa, and the City of London, or their respective deputies, shall attend at their offices on Saturdays, from the hour of ten o'clock in the forenoon until one o'clock in the afternoon and no longer, and no instrument shall be received for registration on that day except within those hours.

Of registrars for Toronto, York, Wentworth, Carleton, Ottawa and London on Saturday.

(3) From the 1st day of July to the 31st day of August, both days inclusive, none of the other registrars shall, after one o'clock in the afternoon on Saturdays, register any instrument, nor shall any instrument be received for registration, nor shall it be obligatory to attend at his office after that hour. R.S.O. 1897, c. 136, s. 26; 8 Edw. VII., c. 33, s. 36. *Amended.*

Office hours of other registrars on Saturday during long vacation.

19.—(1) The registrar shall, when required, and upon being tendered his proper fees, make searches and furnish abstracts of or concerning all instruments or memorials registered which mention any lot of land as described in the patent thereof from the Crown, or any lot described by number or letter on any registered plan subsequent to the registration of the plan, or any part of a lot where the same is clearly described and can be identified in connection with the chain of title, or has been ascertained by actual survey and of and concerning all instruments registered, as may be requested of him in writing, if a writing is demanded by him; and he shall exhibit any original registered instrument, and also the books of the office relating thereto when a personal inspection thereof is desired, and shall give extracts certified under his hand of and concerning the parties to any of such instruments, or of the witnesses to the same, or any other particulars which may be required, but no registrar shall allow any such book or instrument to be taken out of his possession or custody.

Registrars to make searches and abstracts.

To exhibit originals of instruments, etc.

To certify copies, etc.

(2) Every abstract furnished by a registrar shall be commenced and certified to in the words following:—

Registry Office, County of

Abstract of title

I certify that the above (or the following) are correct extracts from the only instruments registered in this office which mention or refer to (*describe property sufficiently for identification*). This abstract does not purport to give entries from the General Register.

Certificate of registrar on abstracts.

Dated at
the hour of

this

day of

19, at

Registrar, or Deputy-Registrar.

(L.S.)

R.S.O. 1897, c. 136, s. 27 (1), (2).

(3)

Fees to be stated on abstract.

(3) The fees for every abstract shall be stated on the face thereof and shall show the items making up the amount of such fees. R.S.O. 1897, c. 136, s. 118, paragraph 5, *part*.

If requested discharged mortgages and expired liens to be omitted from abstract.

(4) The registrar, when requested in writing to do so by the person requiring an abstract of title, shall omit from it mortgages and assignments thereof in respect of which instruments purporting to be discharges are entered in the abstract index and mechanics' liens, in respect of which an action has not been brought, and a certificate thereof registered as required by *The Mechanics' and Wage Earners' Lien Act*, or any other class of instrument mentioned in the request, and in such case the certificate of the registrar shall be varied accordingly. *New*.

10 Edw. VII., c. 69.

Persons searching not to use ink for copying.

20. A registrar shall not permit any person other than his officers or employees to use ink or other indelible fluid or substance for the purpose of making copies of or extracts from an instrument, document, book, paper or record in the Registry Office, or of any matter therein contained. R.S.O. 1897, c. 136, s. 118, par. 2 *part*.

Non-liability for certain errors or omissions.

21. A registrar shall not be liable in respect of entries of instruments or errors or mistakes in the entries of instruments or omissions by any of his predecessors in office, nor for any defect or inaccuracy in any abstract or certificate arising from such error, mistake or omission, unless he had become aware or had knowledge of such error, mistake or omission, or unless such abstract or certificate shall be defective or inaccurate to the knowledge of the registrar or his deputy or the clerk by whom it is made or signed. R.S.O. 1897, c. 136, s. 27 (3).

Registrar to furnish certified copies.

22.—(1) On request of any person the registrar shall furnish a certified copy under his hand and seal of office, of any instrument or memorial deposited, registered, or filed, and kept in his office.

Not bound to produce any papers, except on order of a Judge.

(2) No registrar or deputy registrar shall be required to produce any instrument or document in his custody as registrar or deputy registrar, unless ordered by a Judge of one of the Courts of Ontario, which order shall be produced to the officer issuing the subpoena requiring such production, and shall be by him noted in the margin of the subpoena. R.S.O. 1897, c. 136, s. 28.

[As to filing a certified copy in Court in lieu of original produced on subpoena, see The Evidence Act, sec. 48.]

BOOKS OF OFFICE.

Treasurer to provide proper books.

23.—(1) The treasurer of every county and the treasurer of every city for which there is a separate registry office shall provide

provide a fit and proper registry book for each township, city, town, and village, and for each town plot laid out by the Crown, and all index and other books required for the business of the registry office.

(2) All registry books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size as nearly as practicable.

(3) From the time the books are so provided and received at the registry office, the registrar shall keep and cause to be used for that purpose, a separate registry book for and of each township, city, town and village and for each town plot laid out by the Crown, within his registry division.

(4) Except in the case of the Registrar of East Toronto, the registrar shall also keep a general registry book herein called the general register for the whole of the Registry Division, which shall be used for the purposes hereinafter set forth, and in which book an alphabetical index of the names of all the parties mentioned by name in every instrument entered therein shall also be kept.

(5) Where before the 7th day of April, 1896, wills had been recorded in the separate books of a registry division, but not in the general register when the same ought to have been recorded therein, the Inspector may, by order in writing, direct that an alphabetical index shall be prepared and kept of the names of all persons mentioned by name in such wills and designating the book or books and the pages thereof in which such wills are recorded, and the treasurer shall, for such index and the preparation thereof, pay to the registrar such sum as the Inspector may order in writing. R.S.O. 1897, c. 136, s. 29.

(6) The general register shall be used for recording wills, probates, grants of administration, and powers of attorney in which there is a general devise or power affecting land without local description, and claims for lien under *The Mechanics and Wage Earners' Lien Act* against land which constitutes the line of railway or right of way of a railway company, and also certificates of amalgamation of loan corporations. 62 V. (2), c. 16, s. 1; 63 V. c. 19, s. 1; 7 Edw. VII., c. 29, s. 3.

(7) When a registrar requires a new registry book, or any other book for the use of his office, the same shall, on his application therefor, in writing, be furnished to him by the treasurer, and all books so furnished shall be paid for by the treasurer.

(8) All books so furnished, used and kept, shall be the property of His Majesty.

(9) The Inspector, when, for the despatch of business he finds it necessary, may, by order in writing, permit more than one registry book to be in use at the same time for the same municipality.

If the treasurer neglects to provide books.

24. If the treasurer refuses or neglects to furnish any such book within thirty days after application therefor, the registrar may provide the same and recover the cost thereof from the municipal corporation of the county or city in default. R.S.O. 1897, c. 136, s. 30.

Registrar to certify books

25. The registrar shall certify, Form 2, respecting each register or other book so furnished or provided. 7 Edw. VII. c. 29, s. 5.

Provision where territory attached to or new registry division formed.

26.—(1) Where in consequence of a change in the boundaries of a municipality, or from any other cause territory forming part of a registry division becomes part of another registry division, or where a new registry division is established consisting wholly or in part of territory which theretofore formed part of an existing registry division, the Registrar of the registry division from which such territory is detached shall deliver to the Registrar of the registry division of which it becomes part or in which it is comprised

Certain books instruments and plans to be transferred.

(a) The registry books and all other books and indexes which have been kept according to law exclusively for such territory or any part of it;

(b) The original memorials of all instruments and documents relating exclusively to land within such territory;

(c) All maps of municipalities within such territory deposited according to law in his office, and all registered plans relating exclusively to land within such territory;

(d) An abstract index book of all instruments relating to land within such territory registered before separate registry books were kept for each township or place;

(e) A proper registry book containing full and complete copies of all memorials and other registered instruments affecting such land which are not under the provisions of clause (b) required to be

be delivered, or which, though relating exclusively to land within such territory, are entered in a registry book not required to be delivered as provided by clause (a);

(f) Another proper registry book containing copies of all wills and other instruments registered in a general register in which the names of any of the parties to them have been entered in the alphabetical index kept for any part of the territory;

(g) A copy of the alphabetical index attached to any such general register.

(2) The copies mentioned in clause (e) of the next preceding subsection shall be entered in the registry book in the same order in which they are entered in the original registry book, and the registrar shall write on the margin of such first mentioned book opposite to the entry of each memorial or instrument the number of it and the time at which the same was registered as appears by the indorsement thereon.

Copies to be entered according to original order.

(3) Each registry book to be delivered shall have or be accompanied by an alphabetical index of names.

Books to be indexed.

(4) The registrar shall carefully compare all entries made in the registry books which he is required to deliver with the original entries in the registry books in his office, and shall write and sign a certificate that he has done so in each book before delivering it.

Comparing and certifying books.

(5) The registrar who receives any original memorial or instrument under the provisions of this section which is not copied in any registry book delivered to him shall cause the same to be copied in a proper registry book.

Entering instruments not copied.

(6) A registrar who fails to perform the duties imposed on him by the preceding subsections of this section within six months after the territory is detached from his registry division, or within any extended period allowed by the Inspector under the provisions of subsection 7 shall incur a penalty not exceeding \$400.

Penalty for neglect or deliver books, etc.

(7) The Inspector may extend such period of six months for a further period not exceeding six months. R.S.O. 1897, c. 136, ss. 32 and 33; 8 Edw. VII., c. 33, s. 34. *Amended.*

27.—Where a registrar is removed from or resigns his office, he shall forthwith deliver up all books, plans, instruments, memorials and indexes in his possession as registrar to the person who is appointed registrar in his stead.

Registrar removed or resigning to deliver up books to new registrar, etc.

or

Penalty
in case of
refusal.

or to any other person who may be appointed in writing, by His Majesty's Attorney-General for Ontario to receive the same, and if the registrar refuses to do so, the Attorney-General may direct the sheriff of the county to seize and take immediate possession of the same wheresoever found, and the registrar so offending shall incur a penalty not exceeding \$2,000, and in the discretion of the Court may also be imprisoned for any period not exceeding one year. R.S.O. 1897, c. 136, s. 34.

When any
book becomes
unfit for fur-
ther use copy
to be made.

28.—(1) Where any book from age or use, is becoming obliterated or unfit for future use, the Inspector shall, by direction in writing under his hand, order that it be re-copied in a book of the same description as that prescribed by section 23, so far as the same can be deciphered by examination thereof and of the original instruments or memorials relating thereto.

Original to be
preserved.

(2) Such book having the order of the Inspector inserted at the beginning, and having the affidavit or declaration of the registrar or his deputy, at the end, to the effect that it is a true copy of the original book, shall be accepted and received as the original, and as *prima facie* evidence that the copy is a true copy, but the original book shall nevertheless be carefully preserved.

Repairs of
books, maps,
etc.

(3) The Inspector may order any book which is out of repair to be repaired in such manner as he thinks necessary; and may order plans and maps deposited in any registry office to be copied, mounted or bound, and to be preserved in such manner as he thinks necessary.

Inspector may
order dupli-
cate or new
abstract in-
dexes.

(4) The Inspector may order as many counterparts or copies of any abstract index book to be made as he shall deem necessary for the public convenience, and may order new abstract indexes to be made when the indexes in use have become complicated or otherwise inconvenient.

And new
surveys
and plans.

(5) When authorized so to do by the Lieutenant-Governor in Council, the inspector may order new surveys and plans to be made of any locality or territory in a registry division which, in his judgment, have become necessary, whether such locality or territory has or has not been subdivided according to a registered plan. R.S.O. 1897, c. 136, s. 35. 62 V. (2), c. 16, s. 2.

Payment for
services under
ss. 26 and 28.

29. Subject to the provisions of section 30, the fees and expenses for services rendered under sections 26 and 28, shall be paid by the treasurer of the county; and a town separated from the county for municipal purposes and a city for which there is not a separate registry office shall pay to the county such equitable proportion thereof as the Inspector shall direct. See R.S.O., c. 136, s. 118.

30. The inspector may order the expenses of new surveys and plans, and the registration thereof under the provisions of section 28, to be paid by the treasurer of any local municipality concerned, or in part by the county treasurer and in part by the treasurer of the local municipality, and the local municipality may, subject to the order of the Inspector, cause such expenses or part thereof to be levied by assessment on all rateable property comprised in the portion of the municipality affected by such plan or survey. R.S.O. 1897, c. 136, s. 118, par. 9; 62 V. (2), c. 16, s. 19.

Fees for preparing plans, etc., for municipalities.

31.—(1) The registrar, in a book, Form 3, called the “Abstract Index,” shall enter under a separate and distinct head each separate lot or part of a lot of land as originally patented by the Crown, or as defined on any registered plan of the subdivision of such land into smaller sections or lots.

Abstract index of lots.

(2) Every instrument which mentions such parcel or lot of land or other subdivision, the names of every party to such instrument and the nature of it, the registration number for each municipality in which land mentioned therein is situate, and the day, month, and year, of its registration, the consideration or mortgage money mentioned in it, and such a description of the land therein mentioned as will readily identify its location, shall, in addition to all entries by law required, be entered by the registrar in the abstract index in regular order under the proper heading of each separate parcel or lot of land. R.S.O. 1897, c. 136, s. 36.

32. Every registrar shall also keep, for each township, city, town, and village, and for each town plot laid out by the Crown, an alphabetical index of names, Form 4, exhibiting in columns the number of each instrument, the names of the grantors, and the names of the grantees. R.S.O. 1897, c. 136, s. 37.

Alphabetical index of names for each locality.

INSTRUMENTS THAT MAY BE REGISTERED.

33. Except as herein otherwise provided and subject to the provisions of the next following section, all instruments mentioned in section 2 may be registered. R.S.O. 1897, c. 136, s. 38.

Instruments which may be registered.

34.—(1) Except as provided by subsection 6 of section 23, no instrument which affects land without local description, shall be registered unless the instrument when offered for registration, in addition to the ordinary proofs for registration, has attached to it a statutory declaration by one of the parties to the instrument or by his attorney under registered power of attorney or by the heirs, executors or administrators of such party, to the effect that the instrument affects land within the registry division, and giving a local or general description

Instruments affecting lands without local description.

description of such land, sufficient to enable the same to be traced or ascertained by a surveyor, and thereupon such instrument shall be recorded in the proper separate registry book and particulars thereof entered in the abstract index and in all other books in the same manner as if the instrument itself had contained the local description of the land.

Registration of instruments in general register and separate registry books.

(2) Where an instrument affecting land without local description is, under this section, recorded in the separate registry books, it may be further recorded and entered therein so as to affect other land by local description, by the registration of a statutory declaration, Form 15, to be made by any of the persons in this section mentioned.

Registry of statutory declaration as to lands affected.

(3) Where an instrument has been or is recorded in the general register, particulars thereof may be recorded in the separate registry books by the registration of a like statutory declaration.

Who may make declaration for a corporation.

(4) Such last-mentioned statutory declaration shall be recorded in the proper registry books, and particulars thereof entered in the abstract index and in all other books in the same manner as upon the registration of an instrument which affects land by local description.

Meaning of "local description."

(5) Any statutory declaration in this section mentioned may, where one of the parties to an instrument is a corporation, be made by an officer thereof, or where one of the parties entitled to make a declaration is absent from Ontario, it may be made by his solicitor. 62 V. (2), c. 16, s. 1; 63 V., c. 19, ss. 1, 2.

(6) In this section "local description" shall mean a local or general description of land sufficient to enable the same to be traced or ascertained by a surveyor. 7 Edw. VII., c. 29, s. 3.

(7) Except mortgages, incumbrances or liens made or given by the original nominee of the Crown or any person through whom a person obtaining letters patent for land derived title, no instrument affecting unpatented land shall be registered. R.S.O. 1897, c. 31, s. 28.

Proof for registration.

35.—(1) An instrument other than a will, grant from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, certificate of judicial proceedings or an instrument which may be registered by deposit of a certified copy shall not be registered unless accompanied by an affidavit, Form 5, of a subscribing witness not being a party to the instrument, as to the execution of the instrument by each party who appears to have executed the same, setting forth the name, place of residence, addition, occupation or calling of the witness, and deposing to—

(a)

- (a) The execution of the original and of the duplicate, if any, by the party to whose execution thereof he is a witness;
- (b) The place of execution by such party;
- (c) That he knows that the person who executed the instrument in his presence is the party to the instrument as to whose execution thereof he deposes;
- (d) That he is a subscribing witness to the instrument.

(2) The affidavit shall be made on or securely attached to the instrument. R.S.O. 1897, c. 136, ss. 40, 41 and 42; 7 Edw. VII., c. 29, s. 6.

(3) An instrument may be registered notwithstanding that the Christian name or names of the subscribing witness making the affidavit is or are only set forth therein by initials or abbreviation, and not in full. R.S.O. 1897, c. 136, s. 45.

(4) The proof of the execution of an instrument made before the day this Act comes into force, which was sufficient proof for registration before that day, shall be sufficient proof for registration under the provisions of this Act. *New.*

36. An instrument, not purporting to convey the land therein mentioned, but which in its nature is, or purports to be given as a security for the payment of a debt or liability incurred by the person executing the same in respect of a purchase or delivery of any goods or in respect of an advance or loan of money, shall not be registered unless the affidavit of execution, Form 6, states that the instrument was read over and explained to the person executing the same, and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land. R.S.O. 1897, c. 136, s. 43.

37.—(1) Every affidavit made under the authority of this Act shall be made before the registrar or deputy registrar of the registry division in which the land lies, or before some person authorized by law to take affidavits in or for use in Ontario.

(2) Where an affidavit of execution is made out of Ontario before a person who has not an official seal, it shall be sufficient for him so to certify. R.S.O. 1897, c. 136, s. 46; 7 Edw. VII. c. 29, s. 7.

[See *The Interpretation Act*, s. 20, and *The Evidence Act*, s. 38.]

Affirmation or declaration in certain cases.

38. The proof may be by affirmation or declaration, when the person before whom the same is made certifies that by the law of the country where the proof is made an affirmation or declaration may be substituted for an affidavit. R.S.O. 1897, c. 136, s. 48.

Parties not to take affidavits.

39. No person authorized to take affidavits shall take an affidavit of the execution of an instrument to which he is a party; nor shall such an affidavit be taken from a witness, unless the witness has subscribed his name in his own handwriting as such witness. R.S.O. 1897, c. 136, s. 49.

Witnesses to sign.

Witnesses compellable to make affidavit.

40. Every subscribing witness shall be compellable, by order of a Judge of the Supreme Court or of a County or District Court, to make affidavit or proof of the execution of an instrument for the purpose of registration, and to do all other acts necessary for that purpose, upon being paid or tendered his reasonable expenses therefor. R.S.O. 1897, c. 136, s. 47.

Witnesses insane, absent, etc.

41. Where the witnesses to an instrument are dead or are out of Ontario, or have become insane, idiotic, imbecile, or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument, not by law requiring an attesting or subscribing witness thereto, has been executed without an attesting or subscribing witness, or if it is proved that the place of abode or residence of such first mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the instrument, may make proof before any Judge of any County or District Court, of the execution of the instrument, and upon a certificate, Form 7, being endorsed on the instrument and signed by the Judge, the registrar shall register the instrument and certificate. R.S.O. 1897, c. 136, s. 50.

Seal of Court or seal of Corporation with signature of officer to suffice for registration.

42. The seal of a Court of Record affixed to an instrument, of itself, and the seal of a corporation affixed to an instrument with the signature of the secretary, manager, or attorney or presiding officer thereof, shall be sufficient evidence for the purpose of registration, of the due execution of the instrument by the Judge, or the officer of the Court signing the same, or by the corporation. R.S.O. 1897, c. 136, s. 51; 63 V. c. 19, s. 4.

Judgment affecting lands may be registered.

43. Every judgment or order affecting land may be registered in the registry office of the registry division in which the land is situate, on a certificate signed by the proper officer of the Court setting forth the substance and effect of the judgment or order, and the land affected thereby. R.S.O. 1897, c. 136, s. 52.

[*As to registering and vacating certificates of lis pendens, see Judicature Act, Cap. 51, secs. 97 to 100.*]

44.—(1) Where an instrument is registered, the registrar shall deliver a certified copy or copies thereof as may be required of him, and of all the documents connected with or relating to the same, under his signature and seal of office, and in his certificate he shall state the time, place and other particulars of registration, and that the copy which he so delivers is a true copy of the instrument, and of all the other documents connected with or relating to the same of which they respectively purport to be copies, and in the case of a will that the affidavit proving the due execution of it is deposited in his office. R.S.O. 1897, c. 136, ss. 53 and 70 (4).

Registrar to deliver certified copy of registered instruments.

(2) Every such certified copy may be registered in any other registry office, by deposit thereof, without production of the original instrument, and without proof other than the production of the copy so certified. R.S.O. 1897, c. 136, s. 54.

Registration of certified copy.

(3) Where an instrument is deposited in an office of Land Titles, or is registered in the office of the Clerk of a County or District Court, a copy thereof certified by the officer in whose office it is deposited or registered, may be registered in any registry office in the same manner as a copy of an instrument certified by a registrar. R.S.O. 1897, c. 136, s. 55.

Instrument in land titles or County or District Court office.

(4) A power of attorney or other instrument conferring authority upon an officer or person to act for an incorporated company, executed by the company and deposited in the office of the Provincial Secretary, may be registered by the deposit of a copy thereof certified by the Provincial Secretary or his Deputy or Assistant and without production of the instrument or proof of the execution thereof. See 8 Edw. VII., c. 33, s. 35.

Registration of powers of attorney deposited with Provincial Secretary.

[*As to evidence by certified copy, see The Evidence Act, ss. 46 and 47.*]

45. A notarial copy of an instrument executed in the Province of Quebec, the original of which is filed in a notarial office according to the law of Quebec, and a prothonotarial copy of an instrument executed in Quebec may be registered and shall be treated under this Act for all purposes as if it were the original instrument, and such notarial or prothonotarial copy with the seal of the Notary or Prothonotary attached, shall be registered without any other proof of the execution of the original thereof. R.S.O. 1897, c. 136, s. 58.

Registration of notarial copies of instruments executed in Quebec.

INSTRUMENT IN FOREIGN LANGUAGE.

Registering
instruments
in foreign
languages.

46. Where an instrument or an affidavit of execution is written wholly or in part in a language other than English, there shall be produced with the instrument or the affidavit of execution a translation into English, together with an affidavit by the translator, stating that he understands both languages and has carefully compared the translation with the original, and that the same is in all respects a true and correct translation, and the registrar shall not enter the instrument or affidavit in the language in which it is written, but shall copy from the translation. R.S.O. 1897, c. 136, s. 59.

MANNER OF REGISTERING.

Generally.

Instruments
to be re-
gistered in
full unless
otherwise pro-
vided.

47.—(1) Unless otherwise provided every instrument which may be registered under this Act shall be registered upon and by delivery to and deposit with the registrar of the instrument or of a duplicate or other original part thereof with all necessary affidavits and unless otherwise provided every such instrument shall be recorded at full length in the proper book, including every certificate and affidavit accompanying it, except registrar's certificates. R.S.O. 1897, c. 136, s. 60.

Fees payable
before regis-
tration.

(2) The registrar shall not be bound to receive for registration or to register an instrument unless the proper fees are first paid. R.S.O. 1897, c. 136, s. 123.

Mortgages
not registered
in full.

48.—(1) When a mortgage has endorsed upon it the words "not to be recorded in full," the mortgage shall not be copied into the registry book.

(2) The mortgage shall be numbered as other instruments are required to be numbered in the registry book in its proper order, and the marginal note made as required by section 53, and the registrar shall at the time of the registration enter opposite the number in the registry book the words "Mortgage not recorded in full" and shall also give the date and names of the parties to the mortgage. R.S.O. 1897, c. 136, s. 61 (1-2).

Fee on
registration.

(3) The fee payable for registration not including more than four distinct parcels of land, having a separate heading in the abstract index, shall be \$1, and for each additional parcel requiring entry to be made under a separate heading in the abstract index, five cents.

Fee on regis-
tration of
mortgage not
registered in
full.

(4) Where the mortgage embraces two or more parcels of land situate in different municipalities in the same registry division, there shall be paid a further fee of twenty-five cents
for

for each municipality after the first. R.S.O. 1897, c. 136, s. 61 (3); 62 V. (2), c. 16, s. 3.

(5) After the registration of the mortgage, the registrar, upon the application of any person claiming to be interested in the mortgaged land, and upon payment of the prescribed fees, less the amount already paid for registration, shall cause such mortgage to be recorded in full in the registry book. R.S.O. 1897, c. 136, s. 61 (4). Subsequent registry in full.

(6) The registrar shall indicate in the abstract index in the case of the registration of a mortgage endorsed "Not to be recorded in full," that the same has not been recorded in full and where it has afterwards been recorded in full under the provisions of subsection 5, the registrar shall note in the abstract index opposite the entry, "subsequently recorded in full," giving the date of recording and the number and page of the registry book. 62 V. (2), c. 16, s. 4. Entry in abstract index where mortgage not registered in full.

(7) In this section the word "mortgagee" shall include the assignee of a mortgage and a person obtaining any security coming within the terms of section 36, and the word "mortgage" shall include an assignment of a mortgage and an agreement to extend the time for payment of a mortgage or any such security. 5 Edw. VII., c. 13, s. 11. "Mortgagee" and "mortgage."

49.—(1) No instrument purporting to be signed or executed by any person by attorney shall be registered unless at or before the time of registration, the original power of attorney, or a copy thereof certified for registration, is registered in the same registry office, but when such power of attorney or a certified copy thereof cannot be produced, proof may be made before a judge of any County or District Court of the execution of the instrument and upon a certificate, Form 7, being endorsed on the instrument and signed by the judge that he is satisfied by the proof adduced of the due execution of the instrument the registrar shall register the instrument and certificate. Registration of power of attorney when instrument executed by attorney.

(2) Where an instrument, signed or executed by any person by attorney, is registered, the registrar shall enter a note of the fact of such signature or execution by attorney, giving the name of the attorney, on the abstract index and on all abstracts of title thereafter furnished by him relating to the land affected by the instrument. R.S.O. 1897, c. 136, s. 62. Special entry to be made when instrument executed by attorney.

(3) Subsection 1 shall not apply to instruments purporting to be executed by attorneys or commissioners for the Canada Company, the Trust and Loan Company of Canada, the Exception.
Scottish

Scottish Ontario and Manitoba Land Company, the North British Canadian Investment Company, the North of Scotland Canadian Mortgage Company, Limited, or the Scottish American Investment Company. 62 V. (2), c. 16, s. 5; 63 V. c. 19, s. 5.

Instrument in two or more parts.

50. Where an instrument in two or more original parts is registered the registrar shall endorse upon each of such parts a certificate of the registration, Form 8, and any part so certified shall be received as *prima facie* evidence of the registration of the instrument and of the due execution of the same. R.S.O. 1897, c. 136, s. 63.

Instruments relating to several lots in different localities.

51. Where an instrument includes parcels of land situate in different municipalities in the same registry division it shall only be necessary to furnish the instrument or one original part of the instrument, with an affidavit of its execution, and the instrument and affidavit shall be copied into the registry book for each municipality or place wherein any of the land therein mentioned is situate, and the registrar shall make the necessary entries and certificates. R.S.O. 1897, c. 136, s. 64.

Copying into registry book.

Filing instrument and affidavit.

Certificate and its effect.

52.—(1) When an instrument is registered the registrar shall make an entry thereof in the abstract and alphabetical index books, and record the instrument in the registry book, in the order in which it is received, and file the same with the affidavit of execution and any other affidavit or certificate accompanying it, and shall endorse on every such instrument and upon every duplicate or other original part of it a certificate, Form 8, and shall therein mention the year, month, day, hour and minute in which the instrument was registered, stating in what book the same has been recorded, and the registration number, and shall sign the certificate, which shall be allowed and taken in all Courts as evidence of the respective registries.

Registrar to see that all copies in registers are correct.

(2) The registrar shall see that all copies of instruments in the registry books are true copies, and he or his deputy or clerk shall certify all such copies by writing "examined and certified true copy" in the margin opposite every copy in the book, appending his initials and the date.

(3) When a registry book is completed, the registrar, his deputy or clerk, shall at the end thereof show by a statutory declaration that the copies contained in such book and certified by him, are true copies of the original instruments of which they purport to be copies. R.S.O. 1897, c. 136, s. 66.

53. Every page of the registry book, and every instrument recorded therein, shall be numbered, and the year, month, day, hour and minute of registration shall be entered in the margin of the registry book, Form 9, and the entry shall be signed by the registrar or his deputy. Pages and instruments to be numbered. Minute of registration in margin. R.S.O. 1897, c. 136, s. 67.

Crown Grants.

54. Grants from the Crown shall be registered by producing the grant or an exemplification thereof with a true copy thereof with an affidavit verifying such copy, and the copy shall be deposited with the registrar, and the correctness of it shall be verified by the registrar or his deputy. Crown grants. R.S.O. 1897, c. 136, s. 68.

Orders in Council.

55. Orders in Council shall be registered by depositing a copy of the Order certified by the Clerk of the Council. Orders in Council. R.S.O. 1897, c. 136, s. 69.

Wills.

56.—(1) A will shall be registered;

(a) By the production of the original will and the deposit of a true copy thereof with an affidavit verifying such copy and with an affidavit sworn to by one of the subscribing witnesses to the will proving the due execution thereof by the testator, Registration of wills. or

(b) By the production of probate or letters of administration with the will annexed, or an exemplification or certified copy thereof, under the seal of any Court in Ontario, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by depositing a true copy of the probate, letters of administration, or exemplification or certified copy with an affidavit verifying such copy. R.S.O. 1897, c. 136, s. 70 (1); 7 Edw. VII., c. 29, s. 8.

(2) The correctness of the sworn copy shall be verified by the registrar or his deputy. *New.*

(3) Where a will is registered by the production of the original will, the affidavit of the subscribing witness or of some other person shall state that the testator is dead. Proof of testator's death. R.S.O. 1897, c. 136, s. 70.

(4)

(4) Unless with the consent in writing of the Treasurer of Ontario, an original will or an exemplification or certified copy of probate or letters of administration with the will annexed under the seal of any Court in Great Britain and Ireland, or in any British province, colony or possession, or in any foreign country, having jurisdiction therein, shall not be registered under this section unless accompanied by a certificate of the Registrar of the Surrogate Court of the county in Ontario where the deceased had a fixed place of abode, or where the lands, or any of them, devolving by the will are situate, showing that a statement has been filed with him similar to that required by section 11 of *The Succession Duty Act*, and such certificate shall be deposited with the registrar.

9 Edw. VII.,
c. 12.

Letters of Administration.

Registration
of letters of
administra-
tion.
10 Edw. VII.,
c. 56.

57. Letters of administration which under *The Devolution of Estates Act* affect land, shall be registered in the same manner as a probate of a will. R.S.O. 1897, c. 136, s. 71.

Notice of Sale under Mortgage.

Registration
of notice of
sale.

10 Edw. VII.,
c. 51.

58.—(1) A notice of sale of land under the provisions of *The Mortgages of Real Estate Act*, and a notice of exercising the power of sale contained in any mortgage and the affidavit or declaration of service thereof may be registered and the same shall be registered in the same manner as an instrument affecting land, but it shall not be necessary to record the notice or the affidavit or declaration of service attached thereto in the registry book.

Proof for
registration.

(2) The affidavit or declaration shall be made by the person who served the notice, and shall prove the time, place and manner of such service, and that the copy delivered to the registrar is a true copy of the notice served.

Certified copy
to be
evidence.

(3) A copy of the registered notice and affidavit or declaration certified under the hand and seal of office of the registrar shall be *prima facie* evidence of the service of the notice as stated in the affidavit of declaration. R.S.O. 1897, c. 136, s. 72. *Amended.*

Proof of
notice of sale
under mort-
gage.

(4) Where the person who served the notice is dead or out of Ontario, or where it is proved to the satisfaction of a Judge of a County or District Court, that the place of abode of such person is unknown, or that he is incapable of making an affidavit or declaration of service or where service of such notice has been or is duly admitted any person who is or who claims to be interested in the registration of the

notice

notice may make proof before the judge of the service of the notice, and upon a certificate of such judge endorsed on or attached to the notice and signed by him to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice, the registrar shall register the notice and certificate. 62 V. (2), c. 16, s. 6, *part*; 63 V., c. 19, s. 6.

(5) Where the notice cannot be produced to be registered any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service thereof, and of the inability to produce the same and upon depositing a certificate of such judge to the effect that, from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice upon the person served, naming him, and that the same cannot be produced the registrar shall register the certificate, and a copy of such certificate under the hand and seal of the registrar shall be *prima facie* evidence of the facts therein stated. Where notice of sale lost and cannot be produced.

(6) Where a notice of sale or a certificate of a judge under subsections 4 or 5 has been registered, the same may be registered in any other registry office by depositing a copy thereof, certified in the manner provided by section 44. 63 V., c. 19, s. 7.

[As to Registration of Orders and Judgments for Alimony, see Cap. 51, sec. 35; as to Registration of Notice of Seizure by Sheriff of a Mortgage, see The Execution Act.]

Instruments executed before the 1st January, 1866.

59. The registration of an instrument executed before the 1st day of January, 1866, may be made through a memorial or by certificate or otherwise, as provided by the law in force before that date. R.S.O. 1897, c. 136, s. 73. Registration of instruments executed before 1st Jan., 1866, etc.

60. The proof that would before the first day of January, 1866, have been sufficient for the registration of an instrument executed before that date, shall be sufficient for the registration hereafter of any such instrument, but the instrument shall be recorded at full length, and the memorial and affidavit shall be deposited with the registrar in lieu of the original. R.S.O. 1897, c. 136, s. 74. Proof of registration of instruments in full when executed before 1st Jan., 1866, etc.

61.—(1) An instrument which has been registered by memorial, and has endorsed thereon a certificate of the registration thereof, may be re-registered in the same or any other registry division by the production of the original instrument Registration of instruments in full when memorials previously registered.

strument and by the deposit of a copy with an affidavit verifying the same.

(2) The registrar shall record the instrument, the affidavit of verification and the certificate of former registration at full length and shall write in the margin of the registry book the words "Original not deposited," and where the former registration was made in the same office, the registrar shall write upon the entry of the memorial in the registry book a memorandum as follows:—"Re-registered and recorded in full as No. _____," giving a reference to the number and registry book where the instrument is recorded in full, and he shall also note the re-registration in red ink wherever the memorial is entered in an abstract index.

(3) The registrar shall also endorse upon the original instrument a certificate of the re-registration, Form 8. R.S.O. 1897, c. 136, s. 75.

Discharges of Mortgages.

Satisfaction of mortgage, as registered

62. In the case of a registered mortgage, the registrar on receiving a certificate, Form 10, executed by the mortgagee, or if the mortgage has been assigned, then by the assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, and duly proven in the manner provided for the proof of other instruments, shall, if the assignment or other document of title of the assignee or other person executing the certificate has been registered, register the same, and record it and every affidavit attached to or endorsed on it, at full length in the proper order, in the registry book, and number it in like manner as other instruments are required to be registered, recorded and numbered, and the certificate when registered shall be a discharge of the mortgage, and shall be as valid and effectual in law as a release of the mortgage, and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor. R.S.O. 1897, c. 136, s. 76; 7 Edw. VII., c. 29, s. 9.

Effect of such registration.

Discharge of mortgages held by amalgamated loan corporations.

63. Where a loan corporation which has acquired the assets of another loan corporation by amalgamation of such corporation and the certificate of such amalgamation has been registered desires to discharge any of the mortgages of such corporation it shall be sufficient to set forth in the instrument to be registered the fact of the assent of the Lieutenant-Governor in Council to such amalgamation with the date of the certificate of amalgamation and its registered number in the registry division in which the land affected is situate or mentioning

tioning the Act by which the loan corporations were amalgamated or by which the agreement was ratified and upon registration of the discharge the registrar shall enter in the abstract index the facts mentioned in the discharge. 63 V., c. 19, s. 3, *part*.

64.—(1) Where a mortgage has been paid off by any person advancing money by way of a new loan on mortgage on the same land and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor shall, in writing, have authorized the retention of the discharge for a longer period.

Registration of discharge when mortgage paid off by a new loan.

(2) The registration shall not affect the right (if any) of the mortgagee who may have paid off such mortgage, his assignee, or any person claiming under him by purchase or otherwise, to be subrogated to the rights of the mortgagee, whose mortgage debt has been so paid. R.S.O. 1897, c. 136, s. 77.

65.—(1) Where the person entitled to receive the mortgage money and to discharge a registered mortgage is not the original mortgagee, he shall, at his own expense cause to be registered before the registration of the certificate of discharge all the instruments or documents through which he claims interest in and title to the mortgage moneys, and until such instruments or documents are registered the registrar shall not register such certificate of discharge.

Registration of discharge given by person other than the mortgagee.

(2) The certificate shall mention the date and the date of registration and the registration number of each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage moneys, and the names of the parties thereto.

(3) This section shall apply to powers of attorney where the certificate of discharge or prior instrument or document is executed by attorney, provided that it shall be sufficient in the certificate of discharge to state the date of each instrument, document or power of attorney and the names of the parties thereto and to endorse on the certificate the date of registration and registration number of each instrument, document, or power of attorney, which endorsement shall be signed by the person who signed the certificate or his attorney or agent and the endorsement shall be deemed to be part of the certificate. R.S.O. 1897, c. 136, s. 78 (1); 62 V., (2), c. 16, s. 7; 7 Edw. VII., c. 29, s. 10.

Registering
probate or let-
ters of admin-
istration.

(4) Where probate of will or letters or administration with the will annexed, is required to be registered under this section, and the will is over seven folios in length, including the probate or letters, and does not affect land in the registry division, except in so far as the testator was the holder of a mortgage, it shall not be necessary to record the will at full length; but it shall be sufficient to deposit a copy of and record so much of the probate or letters as shows the grant of probate or letters and the appointment of executors or administrators.

(5) The copy shall be accompanied by an affidavit of the executors or administrators, or of one of them, or of his or their solicitor, verifying it and stating that there is nothing in the will limiting the right of the executors or administrators to receive the mortgage money and discharge the mortgage, and that the will does not affect land in the registry division in which the probate or letters is to be registered, except in so far as the testator was the holder of a mortgage comprising land in such registry division. R.S.O. 1897, c. 136, s. 78 (2).

Application to
Judge for or-
der to register
instruments
authorizing
discharge to
be given.

(6) Where the person whose duty it is to register such instruments or documents refuses or neglects to register the same within fifteen days after payment of the mortgage money to him, the person entitled to redeem the mortgage may on giving ten days' notice in writing to the person so refusing or neglecting, apply in a summary manner to a Judge of the County or District Court of the County or District wherein the land or any part thereof mentioned in the mortgage is situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the Judge, register such instruments or documents at his own expense, and the Judge upon being satisfied by affidavit or oral evidence that the application is a proper one may make the necessary order.

(7) On being satisfied of the due service of the notice the Judge may proceed in the absence of the person so refusing or neglecting.

(8) The notice shall state that it is given in pursuance of this section. R.S.O. 1897, c. 136, s. 79. *Amended.*

Release of
part only of
lands mort-
gaged.

66.—(1) Where the holder of a mortgage desires to release or discharge part of the land comprised in it, or to release or discharge part of the money secured by the mortgage, he may do so by deed or by certificate to be made, executed, proven, and registered in the same manner and with

the

the like effect to the land or money released or discharged as when the whole land and mortgage are released and discharged.

(2) The deed or certificate shall contain as precise a description of the land released or discharged as is required in an instrument of conveyance for registration, and also a precise statement of the particular sum so released or discharged. R.S.O. 1897, c. 136, s. 82.

67.—(1) Where a sheriff, bailiff of a Division Court or other officer, under a writ or warrant of execution against goods, seizes a mortgage belonging to the person against whose goods the writ or warrant has issued, on or affecting land in Ontario, the payment of the mortgage money in whole or in part to the sheriff, bailiff, or other officer by the mortgagor or any other person or any person claiming under him, shall satisfy the mortgage to the extent of such payment. Discharge of mortgage seized under execution.

(2) After payment of the mortgage money or any part thereof, the sheriff, bailiff, or other officer shall, at the request and expense of the person requiring the same, give a certificate, Form 11, under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff and the seal of the Court of which he is bailiff. Form of certificate of discharge.

(3) Upon the written request of the bailiff the clerk of the court shall affix to the certificate the seal of the court; and he shall file the request of the bailiff in his office. Seal of Division Court.

(4) The execution of the certificate shall be proved in the same manner as in the case of other instruments affecting land and the certificate shall be registered in the same manner as other certificates of discharge. Proof of execution of certificate.

(5) The certificate when registered, if the same is of payment in full of the mortgage, shall be as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor. Effect of certificate.

(6) The certificate when registered, if the same is of payment of only a part of the mortgage money, shall be as valid and effectual in law as a release of the mortgage as to such part, as if executed by the execution debtor. R.S.O. 1897, c. 136, s. 83. Effect of certificate of part payment.

68. Instruments of the nature mentioned in section 36 may be discharged, and the land affected thereby released therefrom Discharge of instrument given in relation to purchase of goods.

therefrom by depositing in the proper registry office a certificate of discharge, Form 12. R.S.O. 1897, c. 136, s. 85.

By-Laws, etc.

Registration of by-laws passed since 29th March, 1873.

69.—(1) Every by-law passed since the 29th day of March, 1873, or hereafter passed by a municipal council under the authority of which any street, road, or highway is opened upon any private property, shall before the same becomes effectual in law, be registered in the registry office of the registry division in which the land is situate; and the same shall be registered without further proof by depositing a copy, certified under the hand of the clerk and the seal of the municipality. R.S.O. 1897, c. 136, s. 86 (1); 62 V. (2), c. 16, s. 8.

As to by-laws etc., relating to roads made before 29th March, 1873.

(2) Every by-law passed before the 29th day of March, 1873, and every order and resolution of the Quarter or General Sessions of the Peace passed before that day under the authority of which any street, road, or highway, has been opened upon any private property, may at the election of any person or municipality interested and at the cost and charges of such person or municipality, be registered, by depositing a certified copy of the by-law under the hand of the clerk and the seal of the municipality, or a certified copy of the order or resolution of the Quarter or General Sessions, under the hand and seal of the Clerk of the Peace.

By-laws, etc. changes in municipal boundaries.

(3) Every by-law, proclamation, Order-in-Council, Order of the Ontario Railway and Municipal Board and other instrument of a public or *quasi* public nature whereby a village, town or city becomes incorporated, or the boundaries of any municipality are enlarged, diminished or altered, shall be registered in the proper registry office by the municipality passing or procuring the same, and a copy of a by-law certified under the seal of the corporation, and by the head and the Clerk of the municipality, and a copy of the proclamation, Order-in-Council, Order of the Ontario Railway and Municipal Board or other instrument certified by the Clerk of the Executive Council or the Secretary of the Board, as the case may be, shall be sufficient proof for the purpose of registration. R.S.O. 1897, c. 136, s. 86 (2-3).

REGISTRATION AND ITS EFFECT.

Unregistered instruments after grant from the Crown to be void against subsequent registered purchaser or mortgagee.

70.—(1) After the grant from the Crown of land, and letters patent issued therefor, every instrument affecting the land or any part thereof shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless such instrument

instrument is registered before the registration of the instrument under which the subsequent purchaser or mortgagee claims. R.S.O. 1897, c. 136, s. 87.

(2) This section shall not extend to a lease for a term not exceeding seven years where the actual possession goes along with the lease; but it shall extend to every lease for a longer term than seven years. R.S.O. 1897, c. 136, s. 39.

71. Priority of registration shall prevail unless before the prior registration there has been actual notice of the prior instrument by the person claiming under the prior registration. R.S.O. 1897, c. 136, s. 97. Actual notice.

72. No equitable lien, charge or interest affecting land shall be valid, as against a registered instrument executed by the same person, his heirs or assigns; and tacking shall not be allowed in any case to prevail against the provisions of this Act. R.S.O. 1897, c. 136, s. 98. As to equitable liens. Tacking.

73. Every registered mortgage shall as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, be a security upon the land comprised therein to the extent of the money or money's worth actually advanced or supplied under the mortgage, not exceeding the amount for which such mortgage is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a conveyance, mortgage or other instrument affecting the mortgaged lands, executed by the mortgagor, his heirs, executors or administrators, and registered subsequently to such first-mentioned mortgage, unless before advancing or supplying such money or money's worth the mortgagee in such first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument; and the registration of such conveyance, mortgage or other instrument after the registration of such first mentioned mortgage, shall not constitute such actual notice. R.S.O. 1897, c. 136, s. 99. Mortgages how affected by subsequent registered conveyances, where mortgage moneys paid subsequently.

See also R.S.O. 1897, c. 115, ss. 1 and 2.

74. The registration of an instrument, under this or any former Act shall constitute notice of the instrument, to all persons claiming any interest in the land, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it shall be the duty of a registrar not to register any instrument, except on such proof as is required by this Act. R.S.O. 1897, c. 136, s. 92. Registry to be notice.

Instruments giving authority to sell and naming commission, not to bind land after one year from date.

75. An instrument which is or purports to be a power of attorney or authority to sell land, in which the commission, payment for services, or other remuneration of the attorney or agent is made a charge on the land, shall, as against a subsequent purchaser or mortgagee for valuable consideration, and as against the creditors of the person giving the power or authority, cease to charge the land with such commission, payment for services, or remuneration, after the lapse of one year from the making of the instrument. R.S.O. 1897, c. 136, s. 88.

Wills to be registered within twelve months from death of testator.

76. A will or the probate thereof, and letters of administration with the will annexed registered within twelve months next after the death of the testator shall be as valid and effectual against subsequent purchasers and mortgagees, as if the same had been registered immediately after such death; and in case the devisee, or person interested in the land devised in any such will, is disabled from registering the same within such time by reason of the contesting of such will or by any other inevitable difficulty without his wilful neglect or default, then, the registration of the same within twelve months next after his attainment of such will, probate or letters of administration, or the removal of such impediment, shall be a sufficient registration within the meaning of this Act. R.S.O. 1897, c. 136, s. 89.

Registry of deeds on sales for taxes and sales under process of Court.

77. A deed of land made by a treasurer or other officer, in pursuance of a sale for arrears of taxes shall be registered within eighteen months after the sale; and a deed of land sold under process issued from any Court, shall be registered within six months after the sale; otherwise any person claiming under any such sale shall be deemed not to have preserved his priority as against a purchaser or mortgagee for valuable consideration without actual notice who has registered his conveyance before the registration of such deed. R.S.O. 1897, c. 136, s. 90. *See also Cap. 224, sec. 204.*

Entries in index and corrections.

78.—(1) Except in the manner hereinafter provided, after an instrument has been entered in the abstract and alphabetical indexes, and has been recorded in the proper registry book, no entry shall be made in the abstract index or in the alphabetical index respecting such instrument; nor shall any alteration or correction be made in any entry previously made respecting any instrument, or in any copy of any instrument in any registry book.

(2) The registrar shall immediately after becoming aware of any omission or error in recording, cause to be made in

red ink such entries, alterations or corrections as are requisite; and a memorandum stating the date of every such entry, alteration or correction shall be made in red ink in the margin of the index or registry book opposite or near thereto; and such memorandum shall be signed by the registrar or his deputy. R.S.O. 1897, c. 136, s. 94.

79. An instrument capable of and properly proved for registration, shall be deemed to be registered when and so soon as the same is delivered either personally or by post to and received at his office during office hours by the registrar or some officer or clerk in his office on his behalf, and thereafter no alteration shall be made by any person in such instrument. R.S.O. 1897, c. 136, s. 96.

When instruments to be deemed registered.

(For penalty see s. 115.)

MISCELLANEOUS PROVISIONS.

Plans.

80.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall within three months thereafter register a plan of the land on a scale not less than 1 inch to every 4 chains.

Registration of plans when land subdivided.

(2) The plan shall show the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land being subdivided except where such plan is a subdivision of a lot or lots on a former plan, in which case it shall show the numbers or other distinguishing marks of the lot or lots subdivided and the boundary lines thereof.

Scale of plan and what to shew.

(3) The number or other distinguishing mark and the width both front and rear shall be marked on each lot of the subdivision, the scale shall also be marked on the plan, and such information as will show the depth of the lots, and the courses of all the boundaries of, or the division lines between, the same and the governing line or lines to which such courses are referred shall also be indicated.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

(5) The plan shall also show all roads, streets, railway lands, rivers, canals, streams, lakes, millponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land. R.S.O. 1897, c. 136, s. 100 (1); 62 V. (2), c. 16, s. 9.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words, that there shall not be more than one lot on such plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by number the lots shall be numbered consecutively. 7 Edw. VII., c. 29, s. 11.

Plans to be mounted.

(7) The plan shall be mounted on stiff pasteboard of good quality, and when it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size. R.S.O. 1897, c. 136, s. 100 (2).

Duty of Registrars thereafter.

(8) The plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is deposited, and shall also be certified by an Ontario Land Surveyor, Form 13.

(9) After the registration of the plan the registrar shall keep an index of the land described and designated by any number or letter on the plan, by the name by which it is so designated.

Instruments must conform to such plan.

Exceptions.

(10) Every instrument affecting the land or any part thereof, executed after the plan is registered shall conform and refer thereto, otherwise it shall not be registered, except in cases provided for by section 84, and except also that where a mortgage has been registered before the registration of the plan, any assignment, discharge, final order of foreclosure of the mortgage, vesting order or conveyance under a power contained in or exercisable under the mortgage, shall be registered against the land as described in the mortgage. R.S.O. 1897, c. 136, s. 100 (3); 62 V. (2), c. 16, s. 10.

Penalty for refusing to register plan.

(12) In the case of refusal or neglect by the person making the subdivision for two months after demand in writing for that purpose, to register the plan in accordance with the provisions of this Act when required by any person interested therein or by the Inspector so to do, he shall incur a penalty of \$20 for every calendar month which thereafter

elapses without the plan being registered, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 10 Edw. VII. s. 37.
136, s. 101.

(13) The signature on a plan shall be witnessed and verified as in the case of an instrument. Verification of signature to plans.

(14) The registrar shall not register a plan which does not comply with the provisions of this Act; nor shall he register a plan on which a road or street less than sixty-six feet wide is laid out, unless the assent of the proper municipal council is registered therewith. Conditions as to registration of plans.

(15) The registrar shall not register a plan of a subdivision of land for which the Crown patent has not issued, unless the assent of the Minister of Lands, Forests and Mines to such registration is endorsed on the plan. Plans of unpatented lands.

(16) The registrar shall not register a plan of a subdivision of land, unless the person by whom or on whose behalf the same is tendered for registration appears on the registry books to be the owner of the land, nor unless the consent in writing of all persons who appear by the registry books to be mortgagees of the land is endorsed on the plan and signed by such person, or in the case of a corporation, by its chief officer, and such signatures are duly verified by affidavit. Registrar not to file plans for anyone but owner nor without consent of mortgagees.

(17) When any such plan has been so registered the registrar shall make a record of it, and enter on it the day and year on which the same is registered. R.S.O. 1897, c. 136, s. 102. Duty of the Registrar on receiving plan.

(18) The registrar shall not register any plan upon which any street, road or lane is laid out unless there is registered therewith the approval of the proper municipal council or the order of the Judge of the County or District Court of the county or district in which the land lies, approving of such plan made upon notice to such council. 8 Edw. VII., c. 33, s. 37. When approval of Municipal Council required.

(19) Subject to the provisions of section 85 this section shall apply as well to land already surveyed and subdivided as to that which may hereafter be surveyed and subdivided. R.S.O. 1897, c. 136, s. 103. Application of this section

81. The Inspector may direct that a plan index book in the form prescribed by him shall be kept by the registrar, and the Municipal Treasurer shall pay to the registrar on Plan index book.

the order of the Inspector such sum as he may direct for the preparation in the first instance of such book and the work incidental thereto. R.S.O. 1897, c. 136, s. 105.

Abstract index to subdivisions of townships, etc.

82.—(1) Whenever the Inspector deems that the public convenience so requires, he may direct the registrar to subdivide any township, park or other lots in a city, town or village into such blocks for abstract purposes, as having regard to conveyances registered upon such lots and otherwise, he considers most convenient; and in such case an abstract index shall be prepared by the registrar for each of such blocks as if the same had been originally a separate lot and the same shall extend from the Crown Patent onwards or from or to such other date as the Inspector may direct, and shall contain those registrations only which affect the subdivision to which the index relates. R.S.O. 1897, c. 136, s. 106 (1); 62 V. (2), c. 16, s. 11.

(2) Where the original lines of the lots do not form the boundaries of such blocks, public streets or such other limits as the Inspector directs shall be taken as the boundaries thereof.

(3) Where a plan of a subdivision of a lot or part of a lot has been or is hereafter registered, the registrar, when directed so to do by the Inspector, shall prepare an abstract of all instruments affecting the part subdivided, and enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on such plan.

(4) Whenever and as often as a further subdivision of any of the lots on a plan is made, the registrar, when directed so to do by the Inspector, shall prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the registration of the previous plan.

(5) The registrar shall be allowed for preparing such abstracts, so far as the same relate to instruments registered prior to the Inspector's directing the subdivision, such amount as the Inspector may determine to be reasonable for the services, and the same shall be paid by the owner who registers the plan or by the county or city, as the Inspector may direct.

(6) For abstracts prepared for the purposes of plans hereafter registered, the registrar shall be entitled to receive from the persons registering such plans the prescribed fees for preparing an abstract in addition to the fees to be paid for registering such plans. R.S.O. 1897, c. 136, s. 106 (2-6).

83. No instrument referring to an unregistered plan shall be registered unless an instrument referring to such plan has been already registered in respect of the same land; and if the registrar objects to register an instrument on the ground that it refers to an unregistered plan, he may refuse to register such instrument unless the person desiring its registration refers the registrar to the number of an instrument previously registered in respect of the same land referring to the unregistered plan. R.S.O. 1897, c. 136, s. 107.

Registration of instruments referring to an unregistered plan.

84.—(1) Where an instrument which does not conform and refer to the proper plan has been duly executed and any party thereto has died, or where it would, in the opinion of the registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, such instrument may be registered if accompanied by an affidavit, Form 14, annexed thereto or endorsed thereon.

When instruments not conforming to proper plan may be registered.

(2) The registrar shall thereupon enter such instrument in the abstract index in which the subdivision is entered under the lots designated in the affidavit, and no entry shall be made in the abstract index of the land before its subdivision. R.S.O. 1897, c. 136, s. 108.

85.—(1) A plan, although registered, shall not be binding on the person registering the same, or upon any other persons, unless a sale has been made according to such plan, and in all cases amendments or alterations thereof may be authorized or ordered to be made, at the instance of the person registering the same or his assigns, by a Judge of the High Court, or by a Judge of the County or District Court of the county or district in which the land lies, on application for the purpose, and upon hearing all persons concerned, upon such terms and conditions as to costs and otherwise as may be deemed just.

Plan not binding until some sale is made under it; alterations in plan.

(2) No part of a road or street upon which any lot of land sold abuts, or which connects any such sold lot with or affords means of access therefrom to the nearest public highway shall be altered or closed up, but nothing herein shall in any way interfere with the powers of municipalities in reference to highways. R.S.O. 1897, c. 136, s. 100 (4).

Provision as to streets. Power of municipalities not interfered with.

(3) An appeal shall lie to the Court of Appeal from any order or decision made under this section. R.S.O. 1897, c. 136, s. 110.

Appeal.

86. In sales of land under surveys or subdivisions made before the 4th day of March, 1868, where such surveys or subdivisions so differ from the manner in which such land was

When plan must be registered in case of lands subdivided before 4th March, 1868.

surveyed

surveyed or granted by the Crown that the parcel so sold cannot be easily identified unless the plan is registered, the plan shall be registered if still in existence and procurable for registration, and if it is not, a new plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by an Ontario Land Surveyor, or as nearly as may be according to the proper original survey or subdivision, and the same when so made shall be registered as if under section 80. R.S.O. 1897, c. 136, s. 109.

Plans of cities, towns or villages to be registered in certain cases.

87.—(1) Where a city, town or village or territory, the inhabitants of which are not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and registered, the municipal council of the township within which such territory is situate, or of such city, town or village, upon the written request of the Inspector or of any person interested, addressed to the clerk of the municipality, shall immediately cause a plan of such city, town, village or territory to be made in accordance with this Act, and to be registered in the registry office of the registry division within which the municipality lies.

(2) The plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor that the same is prepared according to the directions of the municipality and in accordance with this Act, and the corporate seal of the municipality shall be attached to the plan. R.S.O. 1897, c. 136, s. 111 (1).

Registration of plan of territory situate in more than one township.

(3) Where such territory is situate in two or more townships, the Inspector may, by a written order, cause the plan to be made and registered, and where the territory is situate in two or more registry divisions, a duplicate of such plan shall be registered in each of such registry divisions.

Certificate to be endorsed on plan.

(4) The plan shall have endorsed thereon the certificate of the surveyor that the same has been prepared according to the order of the Inspector, and such order or a copy thereof shall be attached to or endorsed on such plan; and any plan of territory situate in two or more townships heretofore prepared upon the request of the Inspector may, in like manner, be registered, and shall, when so registered, be as valid as if the same had been prepared upon the order of the Inspector.

(5) The expense of the preparation and registration of a plan of territory, the inhabitants of which are not incorporated, situate wholly within one township may be paid wholly

wholly or in part by the municipality out of its general funds, or the same may wholly or in part, at the option of the municipality, be paid by a special rate to be levied by assessment on all rateable property comprised in such territory described by metes and bounds in a by-law to be passed for the purpose of levying such rate.

(6) The expense of the preparation and registration of a plan of territory the inhabitants of which are not incorporated situate in two or more townships shall be paid out of the general funds of the municipalities in which the territory is situate, in such proportions as the Inspector may order, and any municipality may levy its proportion of such expense, or so much thereof as the council sees fit, by assessment on all rateable property comprised in the part of the territory situate in such municipality as described by metes and bounds in a by-law to be passed for the purpose of levying such rate. 62 V. (2), c. 16, s. 12.

Expenses of registering plan of such territory how apportioned.

(7) Upon the production to the registrar of a certificate signed by the head of the municipal council concerned certifying that a surveyor has been employed by the council to prepare a plan for registration under this section, the surveyor named in such certificate shall be entitled, within six months from the date thereof, to make personal searches of the books, plans and instruments in the registry office for the purpose of enabling him to prepare such plan on payment of the ordinary fees payable for searches and productions up to an aggregate amount not exceeding \$25, and for all further searches and production in excess of \$25, on payment of one-half of the ordinary fees. 7 Edw. VII., c. 29, s. 12.

(8) Except as in this section is otherwise provided, the expense of the preparation and registration of the plan shall be paid out of the general funds of the municipality.

Payment of expenses.

(9) In case of the neglect or refusal of a municipality to comply with all the requirements of this section within six months next after being required so to do, the municipality shall incur a like penalty to that provided by subsection 12 of section 80, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 111 (2); 62 V. (2), c. 16, s. 13.

¹⁰ Edw. VII., c. 37.

(10) Where land in a township has been or shall hereafter be sold under surveys or subdivisions made in a manner which so differs from that in which such land was surveyed or granted by the Crown that the parcel sold cannot be easily identified, and the plan has not been registered under this or any other Act, the council of the township may upon the

Registration of plans of township subdivisions in certain cases.

written

written request of the Inspector, or of any person interested, cause a plan of such land to be made and registered in the same manner and with the same effect as in the case of territory the inhabitants of which are not incorporated; and the expenses of the preparation and registration of the plan shall be paid by a special rate to be levied by assessment on the land comprised in such plan, as described in a by-law to be passed for the purpose of levying such rate. R.S.O. 1897, c. 136, s. 111 (3).

Plans of
municipalities
—what to be
shown on.

(11) A plan prepared under the provisions of subsections 1 and 10 shall show such subdivisions of original lots as are shown by the registered plans, and such as are not so shown but appear from the instruments relating to such land, and the plan shall be prepared without adding to the costs thereof the expense of any actual survey on the ground except such as may be necessary to connect the subdivisions or parcels of land and to show any natural or artificial boundaries of the same which cannot be shown on the new plan from the information contained in the registered plans and instruments. 62 V. (2), c. 16, s. 14.

Obligations
not impaired.

(12) Nothing in this section shall relieve any person from any liability, duty, obligation or penalty provided or imposed by or under any of the provisions of this Act. R.S.O. 1897, c. 136, s. 111 (4).

Power of
County Judge
to order new
plans to be
filed.

(13) Where any land has been sold or conveyed in lots or parcels by metes and bounds, or in any other manner without a plan having been registered under this or any other Act showing such subdivisions or where parts of lots shown by a registered plan have been sold or conveyed, and the lots or parcels so sold or conveyed are not distinguished by numbers or letters, a Judge of the County or District Court of the county or district in which the land is situate, on the application of the Inspector, after such notice as the Judge may deem reasonable, may make an order directing the registrar to have the same, or any part thereof, laid out into lots or parcels in such manner and numbered as the Judge shall think fit, and a plan or plans thereof to be made in accordance with the records in the registry office, or from actual survey, as may be found necessary, and registered in accordance with the provisions of this Act, and the order of the Judge shall be endorsed on or attached to the plan and signed by him.

Costs.

(14) The costs and expenses of and incidental to the application and the plan and the registration thereof shall be borne by the person or municipality to be named by the Judge in the order.

(15) On filing the order with the clerk the same may be enforced as if it were a judgment of the court.

(16) The registration of the plan shall be binding on all ^{Effect of registration.} persons subsequently dealing with the land or any part thereof included in the plan or any interest in or concerning the same, but shall not affect the rights or interests of any owner or other person entitled at or before the date of registration. R.S.O. 1897, c. 136, s. 111 (5); 62 V. (2), c. 16, s. 15.

(17) Where the land proposed to be subdivided by plan ^{Contribution by Crown to sub-dividing and surveying blocks.} under subsection 13 comprises 5,000 acres or upwards, which was granted by the Crown without being subdivided into lots, the Inspector may cause the Attorney-General to be notified of the application, and the Attorney-General, on behalf of the Crown, may either submit that the Crown shall pay or contribute such part of the costs and expenses mentioned in subsection 14 as the Judge may determine to be reasonable, or the Attorney-General may consent, on behalf of the Crown, that the Crown shall pay and contribute a definite part of such costs and expenses, and in either of such cases the Judge may direct by what person or municipality the remainder of such costs and expenses shall be borne, and any such order may be entered and filed and may be enforced as against such person or municipality in the same manner as the order provided for in subsection 14. 1 Edw. VII., c. 15, s. 2.

88.—(1) Every person who is required to register a plan ^{Delivery of plans to municipal treasurers.} shall with the plan deposit with the registrar a duplicate thereof, certified to be such by the surveyor who prepared the plan, and the registrar shall endorse on the duplicate a certificate shewing the number of such plan and the date when the plan was registered, and the duplicate shall without fee be delivered by the registrar to the clerk, treasurer or assessment commissioner of the local municipality in which the land is situate.

(2) The registrar shall not register any such plan unless a duplicate thereof is deposited in accordance with the provisions of this section. R.S.O. 1897, c. 136, s. 112; 7 Edw. VII., c. 29, s. 13.

Re-registration where Registry Books lost, etc.

89. Where the registry books and papers were before ^{Re-registration in case registry books or papers are lost or destroyed.} the 4th day of March, 1868, lost or destroyed, and a memorial cannot be produced, upon proof being made to that effect before a Judge of any Court of Record to his satisfaction as evidenced by a certificate under his hand, the Registrar may re-register an instrument upon production thereof, and no further proof shall be required than the original certificate

certificate of registration endorsed on such instrument and the instrument shall have priority according to the date of the original certificate and shall be preserved by the Registrar with the records of his office. R.S.O. 1897, c. 136, s. 113, *part*.

Inspector
may order
copying of
memorials.

90. Where memorials have not been copied into the registry books in their proper order, the Inspector may cause the same to be entered in proper books to be procured for the purpose, in the manner provided by section 23, and the registrar shall be paid therefor in the same manner as under clause (j) of section 91. R.S.O. 1897, c. 136, s. 113, *part*.

[As to list of Crown Grants being furnished to Registrar, see Cap. 28, sec. 39, and as to proceedings where land patented is in territory under The Land Titles Act, see Cap. 138, sec. 169.]

Fees of Registrars.

Fees

91. A registrar shall be entitled to the following fees, except where otherwise provided:

For registra-
tions general.

(a) For the necessary entries and certificates in registering every instrument other than those hereinafter specially provided for, including among such certificates the certificate on the duplicate, if any, 40 cents.

(b) For registering every such instrument, \$1;

If the instrument exceeds 700 words, at the rate of 15 cents for each additional 100 words or fractional part thereof up to 1,400 words and at the rate of 10 cents for each additional 100 words or fractional part thereof over 1,400 words;

If the instru-
ment includes
different lots
in different
localities.

If the instrument embraces lots or parcels of land, situate in different municipalities in the same registry division, the registration and copying of such instrument together with all necessary entries and certificates in connection therewith, shall be considered separate and distinct registrations for each municipality in which the land is situate, and shall be paid for as follows:

Where the aggregate copying does not exceed 700 words, \$1.40; where it exceeds 700 words, 15 cents for every 100 words or fractional part thereof up to 1,400 words, in addition to the sum of \$1.40;

Where

Where it exceeds 1,400 words, the sum of 10 cents for every 100 words or fractional part thereof in addition to the above charges; the fees shall include all certificates and necessary entries, but if the instrument embraces more than 4 different lots or parcels of land in the same municipality, the registrar shall be allowed a fee of 5 cents for entering each lot or parcel in excess of 4, but not to exceed \$5 for such entries up to 100 entries and where the instrument embraces more than 100 lots or parcels in the same municipality, the registrar shall be allowed an additional fee of 2 cents for entering each lot or parcel in excess of 100. R.S.O. 1897, c. 136, s. 118, par. 1; 7 Edw. VII., c. 29, s. 14.

- (c) For searching the registry books and indexes relating to the title of any lot or part of a lot as ^{For searches as to title.} originally surveyed or patented by the Crown, or as afterwards subdivided into smaller lots, shown by any registered plan thereof, when not exceeding 4 references, 25 cents and 5 cents for every additional reference up to 50 references and 5 cents for every additional 2 references over 50;

In no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of \$3;

In this clause "reference" shall mean a search of a copy of an instrument in the register, and if the abstract indexes only are examined, the total fee for searching any such lot or part of a lot, including 4 references, shall be 25 cents;

"Lot" shall mean one parcel of land as originally patented by the Crown and where such parcel has been subdivided shall include any one of the lots in any such subdivision or re-subdivision, a plan of which has been registered;

No person shall make copies of or extracts from any instrument, document, book, paper or record in the registry office, or of any matter contained therein, to an extent in the aggregate exceeding 300 words for any one lot or part of a lot, except on payment (in addition to the fees for search) of 5 cents for each 100 words or fraction thereof in excess of 300 words;

Where

Search to ascertain persons interested in lands subdivided subsequently to registration of mortgage.

Where subsequent to the registration of a mortgage the land in such mortgage has been subdivided by plan and searches are made for the purpose of ascertaining subsequent grantees or incumbrancers in sale, foreclosure or other proceedings under such mortgage, the person searching, on producing a statutory declaration that the searches are being made for that purpose, shall be entitled to make such searches on all the lots in the subdivision on payment of a fee of 10 cents for each lot, but so that the whole fee for searches shall not exceed \$2. R.S.O. 1897, c. 136, s. 118, par. 2; 62 V. (2), c. 16, s. 17; 7 Edw. VII., c. 29, s. 15.

Searching alphabetical index.

General search.

(d) For searching, if specially required, the alphabetical index of names referred to in section 32 as to each name in the books of any one township, or other municipality in the registry division, 25 cents; but if a general search as to any such name is made throughout the registry division, the aggregate of fees for such search shall not exceed \$1;

(e) For searching, if specially required, the general registry book for the whole registry division, referred to in section 23, as to each name, the sum of 25 cents. R.S.O. 1897, c. 136, s. 118, par. 3, 4;

Abstract titles.

(f) For an abstract of title to any specific parcel certified by the registrar containing such particulars as to any number of the registered instruments affecting such parcel as the applicant may require, 25 cents;

When such abstract exceeds 100 words, 15 cents for every additional 100 words;

For copies of instruments when required, 10 cents for each 100 words.

Where there are two or more lots for which abstracts are required and the entries on such lots are identical, the registrar shall not be entitled to make an abstract for each lot separately, but the abstracts of title of such lots shall be included in one abstract, and the fees therefor shall be the same as if the extract applied to one lot only, except that the registrar shall be

entitled

entitled in addition thereto to a fee of 25 cents for a search on each lot after the first lot, and for the first lot he shall be entitled to the same fees as are payable in respect of one lot;

Where there are two or more lots for which abstracts are required and the entries on such lots are partly identical, the registrar shall make a full abstract for one of the lots and enter in the same all the lots to which each instrument refers, and in the abstract of the other lots he shall only include entries affecting those lots separately. R.S.O. 1897, c. 136, s. 118, par. 5; 62 V. (2), c. 16, s. 18;

- (g) For each certificate furnished by the registrar, except a certificate under paragraphs *a* or *b*, 25 cents; Certificates.
- (h) For registration of any plan of city, town or village lots, including all necessary entries connected therewith, \$1; but if the plan embraces more than 20 lots, the registrar shall be allowed a fee of 5 cents for each lot in excess of 20, not to exceed in the whole \$5;
- (i) For searches as to the names of registered owners and as to mortgages under subsection 16 of section 80, in connection with the registration of a plan, the sum of \$1. R.S.O. 1897, c. 136, s. 118, pars. 6-8;
- (j) For furnishing the copies required under sections 26 and 28, 10 cents for each 100 words or fraction thereof; Statements under sections 26 and 28.
- (k) For repairing any book, or copying, mounting, or binding plans, or for new plans and surveys, or for new abstract indexes, such sums as the Inspector may order in writing, specifying the nature of the service. R.S.O. 1897, c. 136, s. 118, par. 9; 62 V. (2), c. 16, s. 19;
- (l) For drawing each affidavit and swearing the deponent thereto, 25 cents, and the same fee for administering the oath when that only is required. R.S.O. 1897, c. 136, s. 118, par. 10; Affidavits.
- (m) For exhibiting in the office each original registered instrument, including search for the same, 10 cents; Showing originals.

cents; and for producing each original registered instrument, including search for the same, in pursuance of a Judge's order or subpœna, the sum of 10 cents in addition to the registrar's ordinary witness fees. R.S.O. 1897, c. 136, s. 118, par. 11; 62 V. (2), c. 16, s. 20;

Certificates of discharge of mortgage.

- (n) For registering a certificate of discharge of mortgage, including a certificate under section 68, and every other certificate excepting certificates provided for in paragraph o, including all entries and certificates thereof, 50 cents; if the certificate affects more than four lots or parcels, a fee of 5 cents for each lot or parcel in excess of four; if the certificate affects two or more lots or parcels in the same registry division, or if the certificate or aggregate copying thereof exceeds 300 words, 10 cents for each additional 100 words or fractional part thereof, not to exceed \$5 in the whole in any case for the registration of the certificate. R.S.O. 1897, c. 136, s. 118, par. 12; 62 V. (2), c. 16, s. 21;

Fees on registering discharges of mortgage.

Of payment of taxes.

- (o) For registering certificate of payment of taxes, 25 cents.
- (p) For registering certificate of amalgamation of loan corporations, together with a certified copy of any document mentioned in the certificate, \$4. 63 V., c. 19, s. 3, *part*.
- (q) For registering letters of administration, \$1. R.S.O. 1897, c. 136, s. 71, *part*.
- (r) For registering notice of sale of land under power in mortgage, 50 cents. R.S.O. 1897, c. 136, s. 72, *part*.
- (s) For registering an affidavit for registering instrument entered in general register, 50 cents. 63 V., c. 19, s. 2.

Fees in cases not provided for.

92. Where an Act of Ontario or of the Dominion of Canada requires or permits an instrument, document or plan to be deposited, filed or registered in a registry office or requires a registrar to perform any other duty but omits to provide fees to the registrar for his services in connection therewith, and no fees therefor are provided by this or any other Act, the registrar, in the absence of any express provision requiring him to perform such services gratui-

tously

tously, shall be entitled to such reasonable fees therefor as the Inspector shall fix to be paid by the person requiring the service to be performed. 62 V. (2), c. 16, s. 22; 7 Edw. VII., c. 29, s. 16.

93. In abstracts and certificates where figures are used ^{figures.} instead of words to denote dates, numbers and quantities, the same shall be charged for as if each number, though composed of several figures, were but one word. R.S.O. 1897, c. 136, s. 118, pars 13-15.

94. Subject to any general rules made under the author- ^{Inspection of} ity of *The Land Titles Act*, a Master or Local Master of ^{books in} ^{registry offices} Titles may, by himself or by his clerks, without payment of ^{by Master or} fees, inspect all books and papers in a registry office for his ^{Local Master} own information as such Master, but this provision shall ^{of Titles.} not apply to an application in which an abstract of title ^{Rev. Stat.,} obtained for the purpose of such application has not been ^{c. 138.} filed. 4 Edw. VII., c. 10, s. 30.

95.—(1) Where a dispute arises in regard to any question ^{Disputes as} of fees under this Act, the registrar shall forthwith submit ^{to fees.} the same to the Inspector, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Inspector upon the question submitted shall be final, unless appealed from and varied upon appeal, as hereinafter mentioned.

(2) All decisions given by the Inspector shall be in writing, and the appeal therefrom shall be in like manner, and subject to the same rules of practice as nearly as may be as an appeal from a Local Master. R.S.O. 1897, c. 136, s. 119.

96. Every registrar shall keep posted up in some con- ^{Table of fees} spicuous place in his office a printed schedule of the fees ^{to be posted} and charges authorized under this Act. R.S.O. 1897, c. ^{in Registrar's} ^{office.} 136, s. 120.

97. Every registrar shall upon request of the person ^{Registrar to} for whom the service is performed, furnish a statement in ^{give statement} detail of the fees charged by him in respect of any matter ^{of fees pay-} for which fees are payable under the provisions of this Act. ^{able in any} ^{matter.} R.S.O. 1897, c. 136, s. 121.

98. If the treasurer of a county or of a city in which a ^{Recovery of} separate registry office is established, on the request of the ^{fees from} registrar refuses or neglects to pay the fees and allowances ^{municipal} for any services required by this Act, and performed by ^{corporations.} him which such treasurer ought to pay, the registrar may sue for and recover the same from the corporation of the
county

Evidence.

county or city in any court of competent jurisdiction; and the Inspector's certificate of the amount and of the services rendered shall be *prima facie* evidence of the right to recover. R.S.O. 1897, c. 136, s. 122.

Registrars to keep accounts of fees.

99.—(1) Every registrar shall keep a separate book in which he shall enter from day to day, all fees and emoluments received by him, showing separately the sums received for registering each instrument, and for searches, and for extracts or copies.

Registrar's annual returns.

(2) Every registrar shall annually, on or before the 15th day of January, make to the Lieutenant-Governor a return up to and including the 31st day of December of the next preceding year which shall show:

- (a) The number of instruments registered and the fees therefor;
- (b) The number uncopied and uncomparing;
- (c) The number of patents registered and fees therefor;
- (d) The number of deeds registered and fees therefor;
- (e) The number of mortgages registered and fees therefor;
- (f) The number of discharges of mortgages registered and fees therefor;
- (g) The number of wills registered and fees therefor;
- (h) The number of leases registered and fees therefor;
- (i) The number of abstracts and fees therefor;
- (j) The number of searches and fees therefor;
- (k) The number of mechanics' liens and fees therefor;
- (l) The number of all other instruments registered or deposited and fees therefor;
- (m) The amount received for work done for which the county, city, or other municipality is liable;
- (n) The amount received for other services not enumerated above;

- (o) The fees earned and not received;
- (p) The gross amount of fees earned for the year;
- (q) The gross amount earned for the previous year;
- (r) The amount paid to the deputy registrar for services and the amount of other charges in connection with the office paid by the registrar;
- (s) The amount of surplus paid to the county or city for the year and when paid;
- (t) The amount of such surplus for the previous year;
- (u) The net amount received by registrar.

(3) The return shall show the number of mortgages registered during the year

- (a) In which the consideration is nominal or not specified;
- (b) In which the consideration is \$1,000 or under;
- (c) In which the consideration is over \$1,000 and does not exceed \$2,000;
- (d) In which the consideration is over \$2,000 and does not exceed \$5,000;
- (e) In which the consideration is over \$5,000;
- (f) The aggregate amount of all such mortgages.
R.S.O. 1897, c. 136, s. 124.

(4) The return shall also contain such other information as may be prescribed by the Lieutenant-Governor in Council. *New.*

(5) The return shall be transmitted to the Provincial Secretary. *New.*

100. The registrar shall, upon request, furnish to the clerk or to the assessment commissioner or assessor of any municipality a list of all conveyances whereby land in the municipality has been transferred, which have been registered in his office during the next preceding year or any part thereof, and in such list shall include the names of the grantor, the grantee, the consideration shown in each transfer, and a short description of the land conveyed, but shall

Registrar to
furnish clerk
or assessment
commissioner
with list of
conveyances.

not

not include leases for less than twenty-one years, mortgages, discharges of mortgage, or other like instruments, and the registrar shall be entitled therefor to a fee of five cents for every instrument included in the list. R.S.O. 1897, c. 136, s. 125; 7 Edw. VII., c. 29, s. 17; 8 Edw. VII., c. 33, s. 38.

Payments by
Registrars on
gross income.

101.—(1) Every registrar shall be entitled to retain to his own use in each year all the fees and emoluments received by him in that year up to \$1,500.

Rev. Stat.
c. 138.

(2) Subject to the provisions of section 104 of this Act and of section 162 of *The Land Titles Act*, every registrar other than the registrars of East and West Toronto, and for the County of Wentworth, shall of the fees and emoluments received by him in each year pay to the treasurer of the county or city for which or for part of which he is registrar, the following percentages:

- (a) On the excess over \$2,500 up to \$3,000, ten per cent.;
- (b) On the excess over \$3,000 up to \$3,500, twenty per cent.;
- (c) On the excess over \$3,500 up to \$4,500, thirty per cent.;
- (d) On the excess over \$4,500, forty per cent.

Percentage of
net income
payable to
municipality.

Rev. Stat.
c. 138.

(3) Subject to section 104 of this Act and to section 162 of *The Land Titles Act*, every registrar, other than the registrars of East and West Toronto and for the County of Wentworth, of the net income of each year over \$1,500 shall further pay to such treasurer for the use of the municipality, the following percentages:—

- (a) On the excess over \$1,500 up to \$2,000, ten per cent.;
- (b) On the excess over \$2,000 up to \$2,500, twenty per cent.;
- (c) On the excess over \$2,500 up to \$3,000 thirty per cent.;
- (d) On the excess over \$3,000, fifty per cent. R.S.O. 1897, c. 136, s. 126; 9 Edw. VII., c. 26, s. 8 (1).

102.—(1) Subject to the provisions of section 162 of *The Land Titles Act*, the registrars of East and West Toronto shall each pay to the Treasurer of the City of Toronto and the registrar of the County of Wentworth shall pay to the Treasurer of the City of Hamilton and of the County of Wentworth, subject to the provisions of subsection 2 of section 104, of his net income of each year over \$1,500, the following percentages:—

- (a) On the excess over \$1,500 up to \$2,000, ten per cent.;
- (b) On the excess over \$2,000 up to \$2,500, twenty per cent.;
- (c) On the excess over \$2,500 up to \$3,000, thirty per cent.;
- (d) On the excess over \$3,000 up to \$6,000, fifty per cent.;
- (e) On the excess over \$6,000, ninety per cent.

(2) The deduction from the gross income for the expenses connected with the work of or in conducting the business of the offices of the registrars for East and West Toronto shall not be increased beyond the amount paid therefor in the year 1895, without the consent, in writing, of the Inspector. R.S.O. 1897, c. 136, s. 127; 9 Edw. VII., c. 26, s. 8 (2).

103. For the purposes of this Act, "net income" shall mean the excess of all fees and emoluments, including receipts in the current year, whether on account of the earnings or salary of such year or of any former year, after deducting the disbursements incident to the business of the office and after payment to the municipality of the percentages mentioned in subsection 2 of section 101. R.S.O. 1897, c. 136, s. 128.

104.—(1) On the fifteenth day of January in each year every registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is registrar, a duplicate of the return required by section 99, and shall also pay to such treasurer for the use of the municipality the percentages required by this Act to be paid by him.

(2) Where a registry division includes a county or part of a county and a city or town separated from the county for municipal purposes, the percentages shall be paid to the treasurer of the county and to the treasurer of the city or town

town for the use of the municipality in the proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of land situate in the county, and in the city or town respectively. R.S.O. 1897, c. 136, s. 129.

Registrars to send statement of amounts paid to head of municipality.

105. Every registrar shall, on or before the seventh day of January in each year, transmit to the head of any municipality to which he has made payments in accordance with the provisions of this Act during the next preceding year a statement signed by him showing the amounts so paid and the dates of payment, and the head of the municipality receiving such statement shall cause it to be laid before the auditors when auditing the accounts of that year, and shall also read it at the first meeting of the council held after its receipt. 61 V., c. 23, s. 12.

Adjustment of percentage payable to municipality where registrar fills the office for part of year only.

106.—(1) Every registrar or person who fills the office of registrar and receives the fees and emoluments thereof for a part of any year shall, or in case of his death his executors or administrators shall, in respect of the fees and emoluments received by him during such part of a year, pay a proportion thereof to the municipal treasurer for the use of the municipality under sections 101, 102 and 104, such proportion to correspond to the part of the year during which he so filled the office and to be computed for such part of the year at the same rate as the registrar would have been required to pay if he had filled the office for the whole year and received the fees and emoluments and made disbursements incident to the business of the office for the whole of such year at the same rate as for the part of the year during which he filled the office.

(2) Every such registrar or other person, within fifteen days after the expiry of the part of the year for which he filled the office, and in case of his death his executors or administrators, within thirty days after his death, shall make a return under oath to the Lieutenant-Governor, up to and including the day of such expiry or death which shall contain all the particulars required by subsection 2 of section 99, for such part of the year and shall transmit the same to the Provincial Secretary, and shall also, at the same time, transmit to the treasurer a duplicate of such return, and pay to him for the use of the municipality such proportion of the fees and emoluments received by such registrar or other person during the part of the year herein referred to as are payable to such municipality.

(3) Subsection 2 of section 104 shall apply to the proportion of fees in this section mentioned. R.S.O. 1897, c. 136, s. 130.

107. In ascertaining the percentages payable under this Act there shall not be included in the fees and emoluments any sum receivable from a municipality for the preparation of abstract indexes, or for work done under sections 26 or 28 or subsection 5 of section 82 or section 100, nor shall anything in this Act apply to the fees or emoluments received on account of services as Returning Officer under *The Ontario Election Act* or of Canada. R.S.O. 1897, c. 136, s. 131; 7 Edw. VII., c. 29, s. 18.

Certain fees not to be included in payments to municipalities. 8 Edw. VII., c. 8.

108. The council of every county, city or separated town may by by-law authorize the warden, mayor or treasurer to inspect the books of office kept in any registry division in the county or city, for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the county, city or town is or may become entitled, and the registrar shall at all convenient times allow such books to be inspected for that purpose free of charge. R.S.O. 1897, c. 136, s. 132.

Inspection of registry books by municipal officers.

109. The amount to be allowed for the disbursements of a registrar shall be subject to the revision and determination of the Inspector. R.S.O. 1897, c. 136, s. 133.

Disbursement subject to revision of Inspector.

110.—(1) The Lieutenant-Governor in Council may make rules for the management of registry offices, and may, by such rules, confer on the Inspector such powers as may be deemed necessary for carrying out the provisions of this Act, and all other Acts relating to the duties of registrars.

Lieutenant-Governor may make rules.

(2) Every such rule shall be laid before the Assembly within ten days from the making thereof if the Legislature is then in session and if not in session then within the first ten days of the session next after the making thereof. R.S.O. 1897, c. 136, s. 134.

INSPECTOR OF REGISTRY OFFICES.

111. There shall be an Inspector of Registry Offices, who shall be appointed by the Lieutenant-Governor in Council, and who, in addition to any other duties imposed by this Act, shall,

Appointment of Inspector, and his duties.

(a) Make as often as practicable a personal inspection of the building in which each registry office is kept, and of the books, deeds, memorials and other instruments in each office;

Inspection of building.

(b) See that the proper books are provided, that they are in good order and condition, that the proper entries

Books, etc.

entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed, certified and preserved;

- Office hours. (c) Ascertain that the office is kept open at and for the proper times, and that it is at all times duly attended by the registrar or his deputy;
- Seals of officials. (d) Settle on some uniform device for the official seals, and see that the registrars supply themselves therewith;
- New indexes. (e) Inspect all new abstract and alphabetical indexes, and settle and certify the sums, if any, chargeable therefor;
- Plans. (f) Ascertain whether the proper plans required by this Act have been registered, and, where necessary, enforce the provisions of this Act as to the preparation and registration thereof, and instruct the Crown Attorney to take proceedings for that purpose;
- Reporting vacancies. (g) Report upon any vacancies by death or otherwise in the office of registrar or deputy registrar;
- Instruction of registrar and his duties. (h) Inform the registrar how and in what manner he shall do any particular act or amend or correct whatever the Inspector may find amiss; and if he finds the work improperly performed, order a new book or books to be prepared and completed by the registrar at his own expense;
- Sufficiency or insufficiency of sureties. (i) Ascertain the sufficiency of the security furnished the registrar.
- Reporting to Lieutenant-Governor. (j) Report upon all such matters to the Lieutenant-Governor for his information and decision; and
- (k) Perform such other duties as the Lieutenant-Governor in Council may prescribe. R.S.O. 1897, c. 136, s. 135.

Evidence on investigations by Inspector.

112. Where the Inspector in the performance of his duties under this Act has occasion to make an enquiry or to determine any matter he may require any person to give evidence on oath and for that purpose may summon such person to attend as a witness, may enforce his attendance, may compel him to produce books, documents and things, and

and to give evidence in like manner as the High Court may in civil cases. 4 Edw. VII., c. 10, s. 31.

113. Every registrar shall transmit to the Inspector such particulars with reference to the business of his office as the Inspector may require. R.S.O. 1897, c. 136, s. 136. Registrars to furnish information to Inspector.

114. Where it appears to the Inspector that the work of a registry office is unduly in arrear, he may employ such assistance as he deems necessary to perform the work in arrear, and the cost thereof shall be payable by the registrar to the persons entitled, on the certificate of the Inspector. R.S.O. 1897, c. 136, s. 137. Duty of Inspector on finding work in arrear.

PENALTY FOR ALTERING BOOKS OR DOCUMENTS.

115. Any person, except the registrar or other officer, when entitled by law so to do, who alters any book, record, plan or registered instrument in any registry office, or makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of such book, record, plan or registered instrument, shall incur a penalty of not less than \$5 and not more than \$100, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 95. Penalty for unauthorized alteration of entry. 10 Edw. VII., c. 37.

116. Notwithstanding any thing herein until proclamation by the Lieutenant-Governor in Council to the contrary, all instruments affecting land in that part of the City of Toronto which formerly constituted the City of West Toronto shall continue to be registered in the registry office of the Registry Division of East and West York, and all books, instruments and documents relating to such land shall remain in that office. See 9 Edw. VII., c. 125, s. 1 (12); 9 Edw. VII., c. 26, s. 22. Instruments affecting land in former City of West Toronto to be registered in East and West York.

REPEAL.

117. Chapter 136 of the Revised Statutes, 1897, excepting sections 7 (1) and (2), 80, 81, 91, 114, 115, 116 and 117, section 633 of *The Consolidated Municipal Act, 1903*, and section 79 of chapter 109 of the Revised Statutes, and all amendments to the said chapter 136, except amendments to such excepted sections are repealed. Repeal. 3 Edw. VII., c. 19.

118. This Act shall not come into force until the 1st day of September, 1910. Act to come into force on September 1st, 1910

FORM 1.

REGISTRAR'S OATH OF OFFICE.

County (or District) of I (*name and describe the deponent*), having been appointed to the office of Registrar, in and for the
 To Wit: (*name of Registry Division, etc.*), do swear that I will well, truly and faithfully perform and execute all the duties required of me, under the laws of Ontario, pertaining to the said office, so long as I continue therein, and that I have not given directly or indirectly, nor authorized any person to give, any money gratuity or reward whatsoever for procuring the said office for me.

Sworn before me, etc.

A Commissioner, etc.

A.B.

R.S.O. 1897, c. 136, Sched. C.

FORM 2.

CERTIFICATE RESPECTING REGISTRY BOOKS.

This register contains pages, exclusive of index, and is to be used for the City (*or Town, Village or Township*) of , in the County (*or District*) of for the recording of deeds, duplicates, and other instruments under the provisions of *The Registry Act*, and is provided in pursuance of the said Act.

Dated this day of , 19 .

R.S.O. 1897, c. 136, Sched. D.

FORM 3.

ABSTRACT INDEX.

Township of			, Lot No.		in the		Concession.		
1	2	3	4	5	6	7	8	9	
No. of In- stru- ment.	In- stru- ment.	Its Date.	Date of Regis- try.	Grantor.	Grantee.	Quan- tity of Land.	Consid- eration in con- veyance or amount of mort- gage money.	Re- marks.	

NOTE.—The names of all the grantors and grantees should appear in the abstract index.

R.S.O. 1897, c. 136, Sched. E.

FORM 4.

ALPHABETICAL INDEX.

No. of Instru- ment.	GRANTOR.	GRANTEE.	No. of Instru- ment.	GRANTEE.	GRANTOR.

R.S.O. 1897, c. 136, Sched. F.

FORM 5.

AFFIDAVIT OF EXECUTION.

County (or District) of { I, (name, residence and occupation),
To Wit: { make oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, if any, according to the fact) duly signed, sealed and executed by part thereto.

2. That

2. That the said instrument (and duplicate, *if any, according to the fact*) was (or were) executed by the said part at the
of

3. That I know the said part

4. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

A.B.

R.S.O. 1897, c. 136, Sched. G.

FORM 6.

AFFIDAVIT OF EXECUTION WHERE THE INSTRUMENT IS A SECURITY UNDER
SECTION 36.

County (or District) of } I, (name, residence and occupation)
To Wit: } make oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*), duly signed, sealed and executed by part thereto.

2. That the said instrument was read over in my presence and explained to the said , and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land.

3. That the said instrument (and duplicate, *if any, according to the fact*), was (or were) executed by the said part at the
of

4. That I know the said part

5. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

A.B.

R.S.O. 1897, c. 136, Sched. H.

FORM 7.

CERTIFICATE OF THE JUDGE OF THE COUNTY OR DISTRICT COURT IN LIEU
OF AFFIDAVIT OF EXECUTION.

I,
County (or District) of } Judge of the County (or District) Court of
To Wit: } the County (or District) of
certify that, from the proof adduced by
(name of the person producing the proof),
I am satisfied of the due execution of the within instrument (or of the instrument whereof the within is a copy, memorial or duplicate, as the case may be).

As witness my hand at
day of

19 .

the

A.B.,
Judge

R.S.O. 1897, c. 136, Sched. I.

Form 8

FORM 8.

CERTIFICATE OF REGISTRATION.

I certify that the within instrument is duly
 entered and registered in the Registry Office for the Registry Division
 of in Book for the of
 at o'clock of the day of
 19

Number

Registrar,
 or Deputy Registrar.

R.S.O. 1897, c. 136, Sched. J.

FORM 9.

MINUTE OF REGISTRATION.

Entered and registered this day of
 19 at o'clock m.

Registrar (or Deputy Registrar).

R.S.O. 1897, c. 136, Sched. K.

FORM 10.

DISCHARGE OF MORTGAGE.

To the Registrar of the Registry Division of
 I, of , do certify that has satisfied all
 money due on, or to grow due on (or has satisfied the sum of \$
 mentioned in), a certain mortgage made by of to
 which mortgage bears date the day of 19 , and
 was registered in the Registry Office for the Registry Division of
 on the day of 19 , at minutes past
 o'clock, noon, in Book for as No. (*here mention
 the date and the date of registration of each assignment thereof,
 and the names of the parties, or mention that such mortgage has
 not been assigned, according to the fact*), and that I am the per-
 son entitled by law to receive the money, and that such mortgage
 (or such sum of money as aforesaid, or such part of the land as
 is herein particularly described, that is to say:) is therefore
 discharged.

Witness my hand this day of 19
 A.B.

-Witness }
 }

R.S.O. 1897, c. 136, Sched. L.

FORM 11.

CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the Registry Division of

I, A.B., of Sheriff of the County (or District) of
 [or Bailiff of the (number) Division Court of
 the County (or District) of]
 do certify that by virtue of an execution wherein C.D. is plaintiff

and

and *E.F.* defendant, issued out of the High Court of Justice (*or as the case may be*) and to me directed, I seized a certain mortgage made by one *J.H.* of (*as described in the mortgage*) bearing date the day of , 19 , and registered at of the clock in the noon, of the day of in Book for as No. to *E.F.*. of (*as described in the mortgage*), the defendant in the said execution named, and such mortgage has not been assigned (*or has been assigned to the defendant: here set out date and date of registration of assignment*) and I do further certify that I have received from the said mortgagor (*or from the executors, administrators, or assigns of the said mortgagor, as the case may be*), the full amount of said mortgage (*or \$ part of the mortgage money*), and that such mortgage is therefore discharged (*or that such mortgage is as to \$ part of the money thereby payable, discharged*).

As witness my hand and seal of office (*or the seal of the said Court*) this day of 19 .

A.B.

Witness, }
C.D. }

R.S.O. 1897, c. 136, Sched. M.

FORM 12.

CERTIFICATE OF DISCHARGE OF INSTRUMENT CREATING A CHARGE.

To the Registrar of the Registry Division of

County (*or District*) of I, (*name, residence and occupation*),
To Wit: I do hereby certify that of the
 of , in the County (*or District*) of
 (*occupation*) , has satisfied all money due or
to grow due on (*or has satisfied the sum of \$ mentioned in*)
a certain instrument made by of to ,
which instrument bears date the day of 19 , and
was registered in the Registry Office for the Registry Division of
 on the day of 19 , at
 minutes past o'clock noon, in
Book for , as No. (*here mention the
date and the date of registration of each assignment thereof, and the
names of the parties, or mention that such instrument has not been
assigned, according to the fact*), and that I am the person entitled
by law to receive the money, and that such instrument (*or such
sum of money as aforesaid, or such part of the land as is herein
particularly described, that is to say:*)
is therefore discharged.

Witness my hand this day of 19 .

A.B.

Witness }
C.D. }

R.S.O. 1897, c. 136, Sched. N.

FORM 12.

SURVEYOR'S CERTIFICATE OF PLAN.

I hereby certify that this plan accurately shews the manner in which the land included therein has been surveyed and subdivided

by

by me; and that the said plan is prepared in accordance with the provisions of *The Registry Act*.

Dated

19

A.B.

Ontario Land Surveyor.

R.S.O. 1897, c. 136, Sched. O.

FORM 14.

AFFIDAVIT WHERE INSTRUMENT DOES NOT CONFORM TO PLAN.

County (or District) of } I, (name, residence and occupation),
To Wit: } make oath and say:

1. To the best of my knowledge and belief, the land described in the within (or annexed) instrument is designated on Registered Plan No. as lots (describe same so as to conform to plan).

2. That a party to said instrument died on or about the day of 19, (or as the case may be).

(or 2. That it is impossible (or inconvenient) to obtain a new instrument or a re-execution of the said instrument containing a description conforming to the said plan for the following reasons (here set out the facts).

3. That I have a personal knowledge of the matters herein deposed to.

Sworn etc.

R.S.O. 1897, c. 136, Sched. P.

FORM 15.

AFFIDAVIT UNDER SECTION 33 (2).

County (or District) of } I, (name, residence and occupation),
To Wit: } make oath and say that

1. I am a party (or as the case may be) to an instrument affecting land without local description, registered in the Registry Division of on the day of 19, at minutes past o'clock noon, in Book , as number .

2. The said instrument affects the land within the said Registry Division hereinafter described, that is to say (here give a local description of the lands sufficient for the purposes of registering an instrument in the separate Registry Books under the Act).

Sworn, etc.

A.B.

63 V. c. 19, s. 2.

Schedule A.

SCHEDULE A.

LIST OF REGISTRY DIVISIONS.

Part 1.

The undermentioned TERRITORIAL DIVISIONS, as set forth in Chapter 3 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

The Counties of—

1. Brant.
2. Bruce.
3. Carleton, excepting the City of Ottawa.
4. Dufferin.
5. Dundas.
6. Elgin.
7. Essex.
8. Frontenac, excepting the City of Kingston.
9. Glengarry.
10. Grenville.
11. Haldimand.
12. Halton.
13. Hastings.
14. Huron.
15. Kent.
16. Lambton.
17. Leeds.
18. Lennox and Addington.
19. Lincoln.
20. Norfolk.
21. Ontario.
22. Oxford.
23. Peel.
24. Peterborough.
25. Prescott.
26. Prince Edward.
27. Renfrew.
28. Russell.
29. Simcoe.
30. Stormont.
31. Victoria.
32. Waterloo.
33. Welland.
34. Wentworth.

The Cities of—

35. Kingston.
36. London.
37. Ottawa.

The Provisional County of—

38. Haliburton; and

The Districts of—

39. Algoma.
40. Kenora.
41. Manitoulin.
42. Muskoka.
43. Nipissing.
44. Parry Sound.
45. Rainy River.
46. Sudbury.
47. Thunder Bay.

Part 2.

The undermentioned ELECTORAL DISTRICTS, as set forth in Chapter 6 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

48. Durham, East Riding.
 49. Durham, West Riding.
 50. Lanark, North Riding, and town of Carleton Place.
 51. Lanark, South Riding.
 52. Middlesex, West Riding.
 53. Northumberland, East Riding.
 54. Northumberland, West Riding, and the township of West Monaghan.
 55. Perth, North Riding, and the township of Logan.
 56. Perth, South Riding, excepting the township of Logan.
 57. York, North Riding.
58. The East and North Ridings of Middlesex constitute one registry division; and
 59. The East and West Ridings of York constitute one registry division.

Part 3.

The undermentioned registry divisions are constituted as herein after set forth:—

60. East Toronto consists of all that part of the City of Toronto lying east of Spadina Avenue and Spadina Road, continued south and north to the boundaries of the city, the land on Spadina Avenue now occupied by Knox College, and the Islands constituting the southerly part of the said city.
61. West Toronto consists of all that part of the said city lying west of Spadina Avenue and Spadina Road, continued as aforesaid to the boundaries of the city.
62. Grey, North Riding, consists of the townships of Collingwood, Derby, Euphrasia, Holland, Keppel, St. Vincent, Sarawak, Sullivan and Sydenham, and the towns of Meaford, Owen Sound and Thornbury.
63. Grey, South Riding, consists of the townships of Artemesia, Bentinck, Egremont, Glenelg, Normanby, Osprey and Proton, the town of Durham, and the incorporated villages of Dundalk and Markdale.
64. Wellington, North Riding, consists of the townships of Arthur, Minto, Maryborough, Peel and West Luther; the towns of Harriston, Mount Forest and Palmerston, and the incorporated villages of Arthur, Clifford and Drayton.
65. Wellington, South and Centre Ridings, consists of the townships of Guelph, Eramosa, Erin, Nichol, Pilkington, West Garrafraxa and Puslinch; the city of Guelph, and the incorporated villages of Elora, Fergus and Erin.

NOTE.—The townships hereinbefore mentioned include all towns and incorporated villages situated within the limits thereof respectively.

R.S.O. 1897, c. 136, Sched. P; 2 Edw. VII. c. 12, s. 19; 2 Edw. VII. c. 16, s. 1.

CHAPTER 61.

An Act to amend The Land Titles Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Rev. Stat.
c. 138, s. 130
amended.

Section 130 of *The Land Titles Act* is hereby amended by inserting the following subsections between subsections 3 and 4 thereof:

Moneys at
credit of
assurance
fund to be
paid to
treasurer of
Province and
Ontario Govern-
ment stock
to be issued
therefor.

(3a) All money paid under subsection 2 of section 130 of *The Land Titles Act* as enacted by section 5 of the Act passed in the 3rd year of His Majesty's reign Chaptered 12, and in Court at the credit of the "Assurance Fund under *The Land Titles Act*" account and all money hereafter payable under the said subsection shall on his demand be paid to the Treasurer of Ontario, and the Treasurer shall on receipt of such money issue to the Accountant of the Supreme Court in trust, Ontario Government Stock to an amount equal to the sum or sums so received, and such stock shall represent the "Assurance Fund under *The Land Titles Act*" and be available for the same purposes.

(3b) The stock referred to in subsection 3a shall be payable or redeemable at such time and shall be subject to such conditions as to inscription, registration and transfer thereof as the Lieutenant-Governor in Council may deem advisable, and shall bear interest at the rate of two and one half per centum per annum.

(3c) The said stock, together with the interest thereon, shall be charged upon and paid out of the Consolidated Revenue Fund.

(3d) All sums which become payable out of the said "Assurance Fund under *The Land Titles Act*," shall to the extent, but not exceeding the amount, of such fund be paid by the Treasurer of Ontario to the persons entitled thereto, out of the Consolidated Revenue Fund, on the production of the Order of the Court or Judge authorizing or directing the payment to be made or of a certified copy thereof, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant, and the amount thereof shall be reduced accordingly.

CHAPTER

CHAPTER 62.

An Act respecting the Legal Meaning of
Expressions relative to time.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Definition of Time* Short title
Act." R.S.O. 1897, c. 144, s. 1.

2.—(1) Where an expression of time occurs in any Act or
in any Rule of Court, by-law, deed or other instrument,
heretofore or hereafter enacted or executed, or where any hour
or other period of time is stated either orally or in writing, or
any question as to a period of time arises, the time referred
to or intended shall, unless it is otherwise specifically stated,
be held to be "standard time." Expressions
as to time to
refer to
standard
time.

(2) As regards that part of the Province which lies east
of the meridian of eighty-seven degrees west longitude,
standard time shall be reckoned as five hours behind Green-
wich time.

(3) As regards that part of the Province which lies west
of that meridian, standard time shall be reckoned as six
hours behind Greenwich time. R.S.O. 1897, c. 144, s. 2.

3. The expression "month" where it occurs or is stated
as in the next preceding section mentioned, shall mean a
calendar month unless it is otherwise specifically stated.
R.S.O. 1897, c. 144, s. 3. "Month"
meaning of

4. The hours of the day may in any locality be numbered
in one series up to 24. R.S.O. 1897, c. 144, s. 4. Numbering
hours of day
up to 24.

5. Chapter 144 of the Revised Statutes, 1897, and all
amendments thereto are repealed. Repeal.

CHAPTER 63.

An Act to amend the Mercantile Law.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

SURETIES:

Paying principals' debt to be entitled to securities, remedies, etc., of the creditor, s. 3.

Advances on joint account, s. 4.

Death of one of joint contractors, s. 5.

Joint covenantees, s. 6.

BILLS OF LADING:

Rights under, transferable by endorsement, s. 7.

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY, ss. 8-14.

REPEAL, s. 15.

COMMENCEMENT OF ACT, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Mercantile Law Amendment Act.*" R.S.O. 1897, c. 145, s. 1.

Interpretation.

2. In this Act,

"Bill of lading."

(a) "Bill of lading" shall include all receipts for goods accompanied by an undertaking to transfer the same from the place where they were received to some other place by any mode of carriage whatever, whether by land or water or partly by land and partly by water.

"Goods."

(b) Goods shall include wares and merchandise.

"Warehouse receipt."

(c) "Warehouse receipt" shall mean any receipt given by any person for any goods, in his actual, visible and continued possession as bailee thereof in good faith and not as of his own property, and shall include

(i) A receipt given by any person who is the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse,

or

or other place for the storage of goods, delivered to him as bailee, and actually in the place or in one or more of the places owned or kept by him whether such person is engaged in other business or not;

(ii) A receipt given by any person in charge of logs or timber in transit from timber limits or other lands to the place of destination of such logs or timber, and

(iii) A specification of timber.

See R.S.C. c. 29, s. 2g (The Bank Act).

SURETIES' RIGHT TO ASSIGNMENT, ETC.

3.—(1) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty pays the debt or performs the duty, shall be entitled to have assigned to him or to a trustee for him, every judgment, specialty, or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security be or be not deemed at law to have been satisfied by the payment of the debt or the performance of the duty. *R.S.O. 1897, c. 145, s. 2.*

Right of sureties paying the principal debt, etc., to assignment.

(2) Such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, indemnification for the advances made and loss sustained by such person, and the payment or performance made by him shall not be a defence to such action or other proceeding by him. *R.S.O. 1897, c. 145, s. 3.*

And to remedies on such assignment.

(3) No co-surety, co-contractor or co-debtor shall be entitled to recover from any other co-surety, co-contractor or co-debtor, more than the just proportion to which, as between themselves, such last mentioned person is justly liable. *R.S.O. 1897, c. 145, s. 4.*

What only one co-surety, etc., may recover from another.

4.—(1) Where in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, made after the 1st day of July, 1886, the sum, or any part of the sum advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a transfer

Effect of advance on joint account, etc.

Imp. Act 44-45 V. c. 41, s. 61.

fer

fer is made to more persons than one, jointly, and not in shares—the mortgage money, or other money or money's worth, for the time being due to such persons on the mortgage or obligation, shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor; and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

(2) This section shall apply only if and as far as a contrary intention is not expressed in the mortgage, or obligation, or transfer, and shall have effect subject to the terms thereof. R.S.O. 1897, c. 121, s. 13.

Representatives of deceased joint contractors liable although the other joint contractors be living.

5. In case any one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners, may proceed by action against the representatives of the deceased contractor, obligor or partner, in the same manner as if the contract, obligation or promise had been joint and several, and this notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies, shall not be liable to a greater extent than they would have been if this section had not been passed. R.S.O. 1897, c. 129, s. 15.

Effect of covenant with two or more jointly. Imp. Act 44 and 45 Vict., c. 41, s. 60.

6.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly to pay money or to make a conveyance, or to do any other act, to them or for their benefit, shall be deemed to include, and shall, by virtue of this Act imply, an obligation to do the act to, or for the benefit of, the survivor or survivors of them, and to, or for the benefit of, any other person to whom the right to sue on the covenant, contract, bond, or obligation devolves.

Rev. Stat., c. 119.

(2) This section shall extend to a covenant implied by *The Act respecting the Law and Transfer of Property*.

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond, or obligation, and shall have effect subject to the covenant, contract, bond, or obligation, and to the provisions therein contained.

BILLS OF LADING.

7.—(1) Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement, shall have and be vested with all rights of action, and be subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made with him.

Rights and liabilities of consignees and endorsees of bills of lading. Imp. Act. 18-19 V. c. 111.

(2) Nothing in this section shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason of or in consequence of such consignment or endorsement.

Certain rights and liabilities not affected.

(3) Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel, train or conveyance of any kind, shall be conclusive evidence of shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary; but the master or other person so signing, may exonerate himself in respect to such misrepresentation, by shewing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. R.S.O. 1897, c. 145, s. 5.

Bills of lading as evidence against signer.

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY.

8.—(1) The owner of or other person entitled to receive the goods included in a warehouse receipt or bill of lading may transfer such warehouse receipt or bill of lading by endorsement thereon signed by himself, his attorney or agent to any other person as collateral security for any debt owing by such person.

Assignment of warehouse receipts.

(2) The endorsement shall from the date thereof vest in the transferee all the right and title of the endorser to or in such goods subject to the right of the endorser to have such warehouse receipt or bill of lading re-transferred to him if the debt is paid when due.

(3) If the debt is not paid when due the person to whom such warehouse receipt or bill of lading was so transferred may

may sell the goods and retain the proceeds or so much thereof as will be equal to the amount of the debt, and shall return the overplus, if any, to the endorser. R.S.O. 1897, c. 147, s. 7.

Warehouse receipt or bill of lading given by owner who is a warehouse man.

9. Where a person by whom a warehouse receipt or bill of lading might be given for goods in his capacity as a miller, or the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, master of a vessel or carrier, is the owner of or entitled himself otherwise than in such capacity, to receive the goods, any warehouse receipt or bill of lading or any acknowledgment or certificate intended to answer the purpose thereof, given and endorsed by such person, shall be as valid and effectual for the purposes of this Act as if the warehouse receipt, bill of lading, acknowledgment or certificate had been given by one person and endorsed by another. R.S.O. 1897, c. 145, s. 8.

As to goods manufactured from articles pledged.

10. If goods are manufactured or produced from the goods or any of them, included in or covered by any warehouse receipt, while so covered, the person holding such warehouse receipt shall hold or continue to hold such goods during the process and after the completion of such manufacture or production, with the same right and title and for the same purposes and upon the same conditions, as he held or could have held the original goods. R.S.C. 1906, c. 29, s. 89 (1).

Limit of time for holding goods in pledge.

11.—(1) No goods other than timber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding six months.

(2) No lumber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding 12 months.

(3) No transfer of a bill of lading or warehouse receipt shall be made under this Act to secure the payment of any debt unless the debt is contracted at the time of the acquisition of the bill of lading or warehouse receipt or upon the written promise or agreement that such bill of lading or warehouse receipt would be given to such person. R.S.O. 1897, c. 145, s. 9 and 10 (1).

Prior claim of person making advance over unpaid vendor.

12. All advances made on the security of a bill of lading or warehouse receipt, shall give to the person making the advances a claim for the repayment of the advances on the goods therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid

unpaid vendor or other creditor, save and except claims for wages for labour performed in making and transporting timber, boards, deals, staves, sawlogs or other lumber: Pro-Provido. Provided that such preference shall not be given over the claim of an unpaid vendor who had a lien upon the goods at the time of the acquisition by such person of the bill of lading or warehouse receipt, unless the same was acquired by him without knowledge of such lien.

13. In the event of the non-payment at maturity of any debt or liability secured by a bill of lading or warehouse receipt, the holder thereof may sell the goods mentioned therein or so much thereof as will suffice to pay such debt or liability with interest and expenses, returning the surplus, if any, to the person from whom the bill of lading or warehouse receipt, or the goods mentioned therein, as the case may be, were acquired: Sale of goods on non-payment of debt. Provided that such power of sale shall be exercised subject to the following provisions: Provido as to

- (a) No sale of any timber, boards, deals, staves, sawlogs or other lumber shall be made under this Act without the consent in writing of the owner until notice of the time and place of such sale has been given by registered letter to the last known address of the pledgor at least 30 days before the sale thereof. Notice of sale of timber, etc.
- (b) No goods other than timber, boards, deals, staves, sawlogs or other lumber shall be sold under the provisions of this section without the consent of the owner until notice of the time and place of sale has been given by a registered letter to the last known address of the pledgor thereof at least 10 days before the sale thereof. Notice of sale of other goods.
- (c) Every sale under such power of sale without the consent of the owner shall be made by public auction after notice thereof by advertisement, in at least two newspapers published in or nearest to the place where the sale is to be made, stating the time and place thereof. Sale to be by auction. See R.S.O. 1897, c. 145, ss. 9, 10 and 11; R.S.C. c. 29, s. 89 (*The Bank Act*).

14.—(1) Every transportation receipt, warehouse receipt, accepted order and certificate for crude petroleum, issued by any incorporated company authorized to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such endorsement Transfer of warehouse receipts for crude petroleum issued by incorporated companies.

dorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in any such transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of such transportation or warehouse receipt, accepted order or certificate, as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way.

(2) On the delivery of any petroleum mentioned in such document, by such company, in good faith, to a person in possession of such transportation or warehouse receipt, accepted order or certificate so endorsed or transferred, the company shall be freed from all further liability in respect thereof, and the endorsee or transferee or holder of every such transportation or warehouse receipt, accepted order or certificate, to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R.S.O. 1897, c. 145, s. 12.

Repeal.

15. Chapter 145 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Commence-
ment of Act.

16. This Act shall come into force and take effect on, from and after the first day of September, 1910.

CHAPTER 64.

An Act respecting Assignments and Preferences by insolvent Persons.

Assented to 7th March, 1910.

SHORT TITLE, s. 1	Assignment to be registered and notice thereof published, ss. 16-19.
INTERPRETATION, s. 2.	MEETING OF CREDITORS, ss. 20-22.
CONFESSIONS OF JUDGMENT, COGNOVITS, ETC., IN FRAUD OF CREDITORS TO BE VOID, s. 4.	Voting, ss. 23, 24.
ASSIGNMENTS, ETC., IN PREJUDICE OF CREDITORS TO BE VOID, s. 5.	PROOF OF CLAIM, s. 25.
ASSIGNMENTS FOR BENEFIT OF CREDITORS, ss. 6-9.	CONTESTATION ss. 26, 27.
How claims are to rank, s. 10.	ASSETS TO BE RETAINED IN PROVINCE, s. 28.
Substituted assignee, s. 11.	ACCOUNTS AND STATEMENT, s. 29.
Appointment and rights of assignee, s. 12.	SET OFF, s. 30.
RECOVERY OF PROCEEDS WHERE PROPERTY SOLD, s. 13.	DIVIDENDS AND DIVIDEND SHEET, ss. 31-33.
Assignments to take precedence of executions, s. 14.	ASSIGNEE'S REMUNERATION, ss. 34, 35.
Amendment by Court, s. 15.	INSPECTOR'S REMUNERATION, s. 36.
	EXAMINATION OF ASSIGNOR, ETC., ss. 37-40.
	REPEAL, s. 41.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1 This Act may be cited as "*The Assignments and Preferences Act*." Short title.

2. In this Act,

Interpretation.

"Judge" shall mean a Judge of the County or District Court of the county or district in which the assignment is required to be registered.

"Judge."

3. Where a Judge is disqualified to act in a matter arising under this Act, a Judge of the County or District Court of an adjoining county or district shall have jurisdiction to act in his place. Where judge disqualified.

FRAUDULENT JUDGMENTS AND ASSIGNMENTS.

Certain confessions of judgment to be void.

4. Every confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment given by a person being at the time in insolvent circumstances or unable to pay his debts in full or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor with intent thereby to defeat, hinder, delay or prejudice his creditors wholly or in part or to give one or more of his creditors a preference over his other creditors or over any one or more of them, shall be null and void as against the creditors of the person giving the same and shall be ineffectual to support any judgment or execution. R.S.O. 1897, c. 147, s. 1.

Gifts, transfers, etc., made by insolvents which defeat or prejudice creditors to be void.

5.—(1) Subject to the provisions of section 6, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, shall as against the creditor or creditors injured, delayed or prejudiced be null and void.

(2) Subject to the provisions of section 6 every such gift, conveyance, assignment or transfer, delivery over or payment made by a person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, to or for a creditor with the intent to give such creditor an unjust preference over his other creditors or over any one or more of them shall, as against the creditor or creditors injured, delayed, prejudiced or postponed, be null and void.

(3) Subject to the provisions of section 6, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall in and with respect to any action or proceeding which, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning hereof whether the same is made voluntarily or under pressure.

(4)

(4) Subject to the provisions of section 6, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure.

(5) The word "creditor" in the fifth and sixth lines of subsection 2, in the second and third lines of subsection 3, and in the second and third lines of subsection 4, shall include any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given become a creditor of the person giving the preference within the meaning of these subsections. R.S.O. 1897, c. 147, s. 2.

"Creditor" for certain purposes to include surety and endorser.

ASSIGNMENTS FOR GENERAL BENEFIT OF CREDITORS.

6—(1) Nothing in the next preceding section shall apply to an assignment made to the sheriff of the county or district in which the debtor resides or carries on business or with the consent of a majority of his creditors having claims of \$100 and upwards computed according to the provisions of section 24, to another assignee resident within Ontario, for the purpose of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts; nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to an innocent purchaser or person; nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods or property of any kind, which is made in consideration of a present actual *bona fide* payment in money, or by way of security for a present actual *bona fide* advance of money, or which is made in consideration of a present actual *bona fide* sale or delivery of goods or other property where the money paid, or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

Assignments for benefit of creditors and bona fide sales, etc., protected.

(2) In the case of a valid sale of goods or other property, and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor, under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment

Transfer to creditor of consideration for sale invalid..

or transfer, even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made.

General assignment not in accordance with Act, when voidable.

(3) Every assignment for the general benefit of creditors, which is not void under section 5, but is not made to the sheriff, nor to any other person with the prescribed consent of creditors, shall be void as against a subsequent assignment which is in conformity with this Act, and shall be subject in other respects to the provisions thereof until and unless a subsequent assignment is executed in accordance therewith.

Security given up upon void payment to be returned.

(4) Where a payment has been made which is void under this Act, and any valuable security was given up in consideration of the payment, the creditor shall be entitled to have the security restored, or its value made good to him before, or as a condition of, the return of the payment.

(5) Nothing herein shall

10 Edw. VII., c. 72.

(a) Affect *The Wages Act*, or prevent a debtor providing for payment of wages due by him in accordance with the provisions of that Act,

Payment of wages protected.

(b) Affect any payment of money to a creditor, where such creditor by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid, unless the security is restored or its value made good to the creditor,

Exchange of securities protected.

(c) Apply to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors, or

Certain securities to be valid.

(d) Invalidate a security given to a creditor for a pre-existing debt where, by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor, in the *bona fide* belief that the advance will enable the debtor to continue his trade or business and to pay his debts in full. R.S.O. 1897, c. 147, s. 3.

Assignee must reside in the Province.

7. No person other than a permanent and *bona fide* resident of Ontario shall be assignee under an assignment within

the

the provisions of this Act, nor shall any assignee delegate his duties as assignee to or appoint as deputy any person who is not a permanent and *bona fide* resident of Ontario; and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of Ontario. R. S.O. 1897, c. 147, s. 4.

8. Every assignment made under this Act, for the general benefit of creditors if the property is described in the words "all my personal property which may be seized and sold under execution and all my real estate, credits, and effects," or in words to the like effect, shall vest in the assignee all the real and personal estate, rights, property, credits, and effects, whether vested or contingent, belonging at the time to the assignment to the assignor, except such as are by law exempt from seizure or sale under execution, subject, however, as regards land, to the provisions of *The Registry Act* and *The Land Titles Act*. R.S.O. 1897, c. 147, s. 5.

Form of assignment for general benefit of creditors.

10 Edw. VII., c. 60, Rev. Stat., c. 138.

[As to the preferential lien of a landlord, see R.S.O., Cap. 170, sec. 34.]

9. Every assignment for the general benefit of creditors, whether it is or is not expressed to be made under or in pursuance of this Act, and whether the assignment does or does not include all the real and personal estate of the assignor, shall vest the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and such assignment and the property thereby assigned shall be subject to all the provisions of this Act, and the same shall apply to the assignee named in such assignment. R.S.O. 1897, c. 147, s. 6.

All assignments for general benefit of creditors to be subject to this Act.

10. If an assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership, or as a member of different partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R.S.O., 1897, c. 147, s. 7.

How claims are to rank where different estates.

11.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards, may substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 6 applies, a person

Appointment of substituted assignee.

person residing in the county or district in which the assignor resided or carried on business at the time of the assignment.

(2) An assignee may be removed, and another substituted, or an additional assignee appointed by the Judge.

(3) Where an assignee dies a new assignee may be appointed in the manner provided by subsection 2. R.S.O. 1897, c. 147, s. 8 (1); 4 Edw. VII. c. 10, s. 33.

Estate to
vest in
substituted
assignee.

(4) Where a new or additional assignee is appointed the estate shall vest in him or in him jointly with his co-assignee without a conveyance or transfer, and he shall register a verified copy of the resolution of the creditors or of the order appointing him in the office in which the assignment was registered.

(5) A verified copy of the resolution or of the order may be registered in the proper registry or land titles office and the registration thereof shall have the same effect as the registration of a conveyance. R.S.O. 1897, c. 147, s. 8 (2).

RIGHTS OF ASSIGNEE.

Rights of
assignee.

12.—(1) Except as in this section is otherwise provided, the assignee shall have the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors, or in violation of this Act.

Creditor may
proceed in
certain cases
if assignee
refuses.

(2) Where a creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the estate, and the assignee under the authority of the creditors or inspectors refuses or neglects to take such proceeding after being required so to do, the creditor shall have the right to obtain an order of the Judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk upon such terms and conditions as to indemnity to the assignee as the Judge may prescribe, and thereupon any benefit derived from the proceeding shall, to the extent of his claim and full costs, belong exclusively to the creditor instituting the same for his benefit, but if, before such order is obtained, the assignee signifies to the Judge his readiness to institute the proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the estate. R.S.O. 1897, c. 147, s. 9.

13.—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, which is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made shall have sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in any action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover shall belong, not only to an assignee for the general benefit of the creditors of the debtor, but where there is no such assignment, to all creditors of the debtor.

Following
proceeds of
property
fraudulently
transferred.

(2) Where there is no assignment for the benefit of creditors, and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor, and shall be subject to the provisions of *The Creditors' Relief Act*.

Taking pro-
ceeds under
execution.

9 Edw. VII.
c. 48.

(3) Where there is no assignment for the benefit of creditors, and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as may be necessary to render the proceeds available for the general benefit of the creditors.

Creditor suing
on behalf of
himself and
other credi-
tors.

(4) This section shall not apply as against innocent purchasers of the property. R.S.O. 1897, c. 147, s. 10.

Protection of
innocent
purchasers.

14. An assignment for the general benefit of creditors under this Act shall take precedence of attachments, garnishee orders, judgments, executions not completely executed by payment and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands or to the lien, if any, for his costs of the creditor who has the first execution in the Sheriff's hands. 3 Edw. VII. c. 7, s. 29.

Assignments
to take
precedence of
attachments,
etc.

15. No advantage shall be obtained by any creditor by reason of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and any such mistake, defect or imperfection shall be amended by the Judge on the application of the assignee or of any creditor

Amendment
of assign-
ment by
judge.

of

of the assignor, and on such notice to other parties concerned as the Judge shall think reasonable, and the amendment, when made, shall have relation back to the date of the assignment, but not so as to prejudice the rights of innocent purchasers. R.S.O. 1897, c. 147, s. 12.

NOTICE AND REGISTRATION OF ASSIGNMENT.

Notice of
assignment
to be pub-
lished.

16.—(1) A notice of the assignment shall forthwith after the delivery thereof to him or his assent thereto, be published by the assignee at least once in the *Ontario Gazette* and not less than twice in one newspaper having a general circulation in the county or district in which the property assigned is situate.

Assignment
to be
registered.

(2) The assignment or a copy thereof shall also within five days from the execution thereof be registered by the assignee, together with an affidavit of a witness thereto of the due execution of the assignment in the office of the clerk of the County or District Court of the county or district in which the assignor, if a resident in Ontario, resided at the time of the execution thereof, or if not a resident then in the office of the clerk of the County or District Court of the county or district where the personal property so assigned or where the principal part thereof is at the time of the execution of such assignment; and the clerk shall number and enter such assignments and endorse thereon the time of receiving the same, and the same shall be open for the inspection of all persons desiring to inspect the same.

10 Edw. VII.,
c. 65.

(3) The clerk shall be entitled to the same fees for services as if the assignment had been registered under *The Bills of Sale and Chattel Mortgage Act*.

(4) For the purposes of subsection 2 the Provisional County of Haliburton shall be deemed part of the County of Victoria. R.S.O. 1897, c. 147, s. 13.

Penalty for
neglecting
publication
or registra-
tion.

17.—(1) If the notice is not published as provided by the next preceding section, or if the assignment is not registered within five days from the delivery thereof to the assignee or his assent thereto, the assignee shall incur a penalty of \$10 for each and every day during which the default continues.

(2) The burden of proving the time of such delivery or assent shall be upon the assignee.

(3)

(3) Where the assignment is made to a sheriff, he shall not incur the penalty unless he has been paid or tendered the cost of advertising and of registering the assignment, nor shall he be bound to act under the assignment until his costs in that behalf are paid or tendered to him. R.S.O. 1897, c. 147, s. 14. Liability of sheriff.

18. If the assignment is not registered, or notice thereof is not published, the Judge may, upon the application of any person interested in the assignment, by order enforce the registration of the assignment or the publication of the notice. R.S.O. 1897, c. 147, s. 15. Compelling publication and registration.

(As to costs of order see 9 Edw. VII. c. 46, s. 2.)

19. The omission to publish or register as required by section 16 shall not, nor shall any irregularity in the publication or registration, invalidate the assignment. R.S.O. 1897, c. 147, s. 16. Assignment not to be invalidated by omission to publish, etc.

MEETINGS OF CREDITORS AND INSPECTORS.

20.—(1) It shall be the duty of the assignee immediately to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and within five days from the date of the assignment to call a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to him, a notice calling the meeting to be held in his office or some other convenient place to be named in the notice not later than twelve days after the mailing thereof, and by advertisement in the *Ontario Gazette*. Assignee to call meeting of creditors.

(2) All other meetings to be held shall be called in like manner. R.S.O. 1897, c. 147, s. 17.

21.—(1) The creditors at any meeting may appoint one or more inspectors who shall superintend and direct the proceedings of the assignee in the management and winding up of the estate and may also at any subsequent meeting for that purpose revoke the appointment of any inspector. Inspectors may be appointed.

(2) Where the appointment of an inspector is revoked or where an inspector dies, resigns his office or leaves Ontario, the creditors at any meeting may appoint another inspector to take his place.

(3)

(3) An inspector shall not directly or indirectly purchase any part of the stock-in-trade, debts or other assets of the assignor. (*See* 38 V. (Can.) c. 16, s. 35.)

Meeting of
creditors by
request of
majority
thereof.

22.—(1) In case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to the provisions of section 24, it shall be the duty of the assignee within two days after receiving such request to call a meeting of the creditors for a day not later than twelve days after he receives the request, and in case of default the assignee shall incur a penalty of \$25 for every day after the expiration of the time limited for calling the meeting until it is called.

Judge to give
directions in
case creditors
do not attend.

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 20, or fail to give directions with reference to the disposal of the estate, the Judge may give such directions as he may deem necessary for that purpose. R. S. O. 1897, c. 147, s. 18.

Voting at
meeting.

23. At any meeting of creditors the creditors may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim stating the amount and nature thereof. R.S.O. 1897, c. 147, s. 19.

Scale of
votes.

24.—(1) Subject to the provisions of section 11, all questions at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

For every claim of or over \$100, and not exceeding \$200,
1 vote.

For every claim of or over \$200, and not exceeding \$500,
2 votes.

For every claim of or over \$500, and not exceeding \$1000,
3 votes.

For every additional \$1,000 or fraction thereof . . . 1 vote.

Upon claims
acquired
after
assignment.

(2) No person shall be entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable.

Casting vote.

(3) In case of a tie the assignee or, if there are two assignees, the assignee nominated for that purpose by the creditors, or by the Judge if none has been nominated by the creditors, shall have a casting vote.

Creditors to
value securi-
ties.

(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof;

thereof; and if such security is on the estate of the assignor, or on the estate of a third person for whom the assignor is only secondarily liable, he shall put a specified value thereon and the assignee under the authority of the creditors may either consent to the creditor ranking for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the assignee has realized such security; and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect of the estate.

(5) If a creditor's claim is based upon a negotiable instrument upon which the assignor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend his claim and revalue his security.

Right to re-value in certain cases.

(6) Where a person claiming to be entitled to rank on the estate holds security for his claim, or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, the Judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days' notice shall be given to the claimant, may order that, unless a specified value be placed on such security and notified in writing to the assignee within a time to be limited by the order, the claimant shall, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate.

When creditor holding security fails to value same.

(7) If a specified value is not placed on such security, and notified in writing to the assignee according to the exigency of the order, or within such further time as the Judge may by subsequent order allow, the claim, or the part, as the case may be, shall be wholly barred as against such estate but without prejudice to the liability of the assignor therefor. R.S.O. 1897, c. 147, s. 20.

PROOF OF CLAIM.

25.—(1) Every person claiming to be entitled to rank

Proof of claim.

on

on the estate shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits of.

Limiting
time for
proof of
claim.

(2) Where a person claiming to be entitled to rank on the estate does not within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections, the Judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days' notice shall be given to the claimant, may order that unless the claim be proved to the satisfaction of the Judge within a time to be limited by the order, the claimant shall no longer be deemed a creditor of the estate, and shall be wholly barred of any right to share in the proceeds thereof.

(3) If the claim is not so proved within the time so limited, or within such further time as the Judge may by subsequent order allow, the same shall be wholly barred, and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the assignor therefor.

Not to inter-
fere with Rev.
Stat. c. 129.

(4) The two next preceding subsections shall not interfere with the protection afforded to assignees, by section 38 of *The Trustee Act*.

Creditor may
prove claim
not due.

(5) A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and to vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. R.S.O. 1897, c. 147, s. 21.

Contestation
of claim.

26.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant.

(2) Within thirty days after the receipt of the notice, or within such further time as the Judge may allow, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action or of the summons in case the action is brought in a Division Court shall be served on the assignee; and in default of such action being brought and writ or summons served within the time limited, the claim to rank on the estate shall be forever barred.

(3) The notice by the assignee shall contain the name and place of business of a solicitor, upon whom service of the writ or summons may be made; and service upon him shall be deemed sufficient service. R.S.O. 1897, c. 147, s. 22.

27.—(1) If the assignee is satisfied with the proof adduced in support of a claim, but the assignor disputes the same, the assignor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim; and such notice shall be given within ten days after the assignor is notified in writing by the assignee that he is satisfied with the proof adduced and not afterwards unless by leave of the Judge.

Procedure where assignee is satisfied with proof of claim and debtor desires to dispute same.

(2) If upon receiving such notice of dispute the assignee does not deem it proper to require the claimant to bring an action to establish his claim, he shall notify the assignor in writing of the fact, and the assignor may thereupon, and within ten days of his receiving such notice, apply to the Judge for an order requiring the assignee to serve a notice of contestation.

(3) The order shall be made only if after notice to the assignee the Judge is of opinion that there are good grounds for contesting the claim.

(4) If the assignor does not make such an application the decision of the assignee shall, as against him, be final and conclusive.

(5) If upon the application the claimant consents in writing, the Judge may, in a summary manner, decide the question of the validity of the claim.

(6) If an action is brought by the claimant against the assignee, the assignor may intervene at the trial, either personally or by counsel for the purpose of calling and examining or cross-questioning witnesses. R.S.O. 1897, c. 147, s. 23.

DISPOSAL OF ASSETS OF ESTATE.

28.—(1) No property or assets of an estate assigned under the provisions of this Act shall be removed out of Ontario without the order of the Judge, and the proceeds of the sale of any such property or assets, and all moneys received on account of any estate shall be deposited by the assignee in an incorporated bank within Ontario, and shall not be withdrawn or removed without the order of the Judge, except in payment of dividends and charges incidental to winding up the estate.

Assets not to be removed out of the Province and moneys to be deposited in a bank.

Penalty.

(2) An assignee or any person acting in his stead who violates the provisions of this section shall incur a penalty of \$500.

(3) One-half of the penalty shall go to the person suing therefor, and the other half shall belong to the estate.

(4) In default of payment of the penalty and all costs incurred in any action or proceeding for the recovery thereof, within the time limited by the judgment, the Court in which the action is brought may order that such assignee or person may be imprisoned for any period not exceeding thirty days, and such assignee or person shall be disqualified from acting as assignee of any estate while such default continues. R.S.O. 1897, c. 147, s. 24.

Accounts to be kept accessible.

29. Upon the expiration of one month from the first meeting of creditors, or as soon as may be thereafter, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as such assignee, and of the position of the estate. R.S.O. 1897, c. 147, s. 25.

Set-off.

30. The law of set-off shall apply to all claims made against the estate and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions of this or any other Act, respecting frauds or fraudulent preferences. R.S.O. 1897, c. 147, s. 26.

Dividends when to be paid.

31. As large a dividend as can with safety be paid, shall be paid by every assignee within twelve months from the date of the assignment and earlier if required by the inspectors; and thereafter a further dividend shall be paid every six months, and more frequently if required by the inspectors until the estate is wound up and disposed of. R.S.O. 1897, c. 147, s. 28.

Notice of dividend sheet.

32. So soon as a dividend sheet is prepared, notice thereof shall be given by registered letter to each creditor, inclosing an abstract of receipts and disbursements, shewing what interest has been received by the assignee for moneys in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor; and after the expiry of eight days from the date of mailing such notice, abstract and dividend sheet, dividends on all claims not
objected

objected to within that period shall be paid. R.S.O. 1897, c. 147, s. 29.

33.—(1) The assignee may take the proceedings authorized by section 33 of *The Creditors Relief Act* to be taken by a sheriff, and in that case sections 33 and 34 of that Act shall apply *mutatis mutandis* to proceedings for the distribution of moneys and determination of claims arising under an assignment made under this Act, with the substitution of "assignee" for "sheriff"; but this section shall not relieve the assignee from mailing to each creditor the abstract and other information required by section 32 of this Act to be sent to creditors, so far as the same is not contained in the list sent by him under section 33 aforesaid.

Distributing moneys and determining claims as provided by 9 Edw. VII. c. 48.

(2) A Judge of the County or District Court of the county or district where the assignment is required to be registered shall be the Judge to whom applications under this section shall be made. R.S.O. 1897, c. 147, s. 30.

REMUNERATION OF ASSIGNEE AND INSPECTORS.

34. The assignee shall receive such remuneration as shall be voted to him by the creditors at any meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case the creditors fail to provide therefor, subject to review by the Judge upon complaint of the assignee or of any creditor. R.S.O. 1897, c. 147, s. 31.

Remuneration of assignee.

35. Where the remuneration of the assignee has not been fixed under the next preceding section before the final dividend, the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding five per cent. of the cash receipts, subject to review by the Judge; but no application by the assignee to review the allowance shall be entertained unless the question of his remuneration has been brought before a meeting of creditors competent to decide the same before the preparation of the final dividend sheet. R.S.O. 1897, c. 147, s. 32.

Where remuneration not fixed before the final dividend.

36.—(1) An assignee shall not make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector, except under the authority of a resolution of the creditors passed at a meeting regularly called, fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting.

Remuneration of inspectors.

(2) An inspector shall not be allowed more than four dollars a day besides actual travelling expenses. R.S.O. 1897, c. 147, s. 33.

EXAMINATION OF ASSIGNOR AND OTHERS.

Examination
of assignor
or employees

37.—(1) Upon a resolution passed by a majority vote of the creditors present or represented at a meeting of creditors regularly called, or upon the written request of a majority of the inspectors, or upon an order made by the Judge, the assignee may examine upon oath before a Master, Local Master, Local Registrar, Deputy Clerk of the Crown of the High Court, Judge of the County or District Court, Special Examiner, Official Referee or any other person named in the order, the assignor or any person who is or has been his agent, clerk, servant, officer or employee of any kind touching the estate and effects of the assignor and as to the property and means he had when the earliest of his debts or liabilities existing at the date of the assignment was incurred and as to the property and means he still has of discharging his debts and liabilities and as to the disposal he has made of any property since contracting such debt or incurring such liability and as to any and what debts are owing to him, and the person examined may be required by the assignee to produce upon such examination any property, book, document or paper in his custody, power or control.

(2) Unless otherwise ordered the examination shall take place in the county or district within which the person to be examined resides.

(3) The Rules and procedure of the High Court as to the examination of a judgment debtor or any clerk or employee or former clerk or employee of a judgment debtor, shall, so far as may be, apply to an examination held under subsection 1. R.S.O. 1897, c. 147, ss. 34 and 35.

Examination
of persons
having cus-
tody of
property of
assignor.

38. Any person who has or is believed or suspected to have in his possession or power any book, document or paper of any kind relating in whole or in part to the assignor, his dealings or property and who refuses or fails to produce the same for the inspection of the assignee within four days after demand in writing by the assignee may by order of the Judge be examined before the Judge or any of the officers mentioned in section 37 touching such book, document or paper and he shall be subject to the same consequences in the case of neglect to attend or refusal to disclose the matters in respect of which he may be examined

or to make such production as are mentioned in section 40.
R.S.O. 1897, c. 147, s. 39.

39. If the assignor does not attend for examination and does not allege a sufficient excuse for not attending, or if attending, he refuses to disclose his property or his transactions respecting the same, or does not make satisfactory answers respecting the same, or if it appears from such examination that the assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the Judge may order the assignor to be committed to the common gaol of the county or district in which he resides, for any period not exceeding twelve months.
R.S.O. 1897, c. 147, s. 36.

When assignor does not attend or refuses to answer questions.

40. Any person other than the assignor liable to be examined shall be subject to the same consequences in case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make production as a witness in an action in the High Court. R.S.O. 1897, c. 147, s. 38.

Compelling attendance and production of books.

41. Chapter 147 of the Revised Statues 1897, and all amendments thereto are repealed.

Repeal.

CHAPTER 65.

An Act respecting Mortgages and Sales of
Personal Property.*Assented to 19th March, 1910.*

SHORT TITLE, s. 1.	AFFIDAVIT OF EXECUTOR, etc., s. 14.
INTERPRETATION, s. 2.	GENERAL AUTHORITY TO RENEW OR TAKE MORTGAGES, s. 15.
APPLICATION OF ACT, ss. 3, 4.	CONTRACTS TO GIVE MORTGAGES OR MAKE SALES, ss. 16, 17.
CHATTEL MORTGAGES WHERE POSSESSION OF GOODS UNCHANGED:	REGISTRATION, s. 18, 20.
To be registered or void as against creditors, ss. 5-7.	WHEN MORTGAGED GOODS REMOVED TO ANOTHER COUNTY OR DISTRICT, s. 19.
MORTGAGES OF GOODS TO SECURE ADVANCES OR SUBETIES, s. 6.	RENEWAL OF MORTGAGES, s. 21.
SALES OF GOODS WHERE POSSESSION UNCHANGED:	WHERE COUNTY OR DISTRICT BOUNDARIES ARE ALTERED, s. 22.
To be registered or void as against creditors, s. 8.	SUBSEQUENT POSSESSION NOT TO VALIDATE SALE OTHERWISE VOID, s. 23.
To operate from execution, s. 9.	MORTGAGE TO SECURE BONDS OF CORPORATIONS, s. 24-26.
Description in instrument, s. 10.	PROOF OF REGISTRATION, s. 27.
Act to extend to goods not ready for delivery, s. 11.	DISCHARGE OF MORTGAGES, ss. 28, 29.
AFFIDAVIT OF BONA FIDES MAY BE MADE BY ONE OF TWO OR MORE MORTGAGEES, etc., s. 12.	FEES, s. 30.
AUTHORITY TO BE FILED, s. 13.	Inspection of books, s. 31.
	STATISTICAL RETURNS, s. 32.
	REPEAL, s. 33.
	COMMENCEMENT OF ACT, s. 34.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Bills of Sale and Chattel Mortgage Act.*" R.S.O. 1897, c. 148, s. 1.

Interpretation. 2. In this Act,

"Actual and continued change of possession,"

(a) "Actual and continued change of possession" shall mean such change of possession as is open, and reasonably sufficient to afford public notice thereof. R.S.O. 1897, c. 148, s. 39.

(b)

- (b) "Creditors" shall include creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, an assignee in insolvency of a mortgagor or bargainor and an assignee for the general benefit of creditors, as well as creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of a Sheriff or other officer. R.S.O. 1897, c. 148, s. 38. "Creditors."
- (c) "Mortgage" shall include a conveyance intended to operate as a mortgage. *New.* "Mortgage."
- (d) "Rolling stock" shall mean and include any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels, over or upon the rails or tracks of a railway. *New.* "Rolling Stock."

3. This Act, except section 32, shall not apply to an assignment for the general benefit of creditors to which *The Assignments and Preferences Act* applies. *New.* Act not to apply to assignment for benefit of creditors.

4. This Act shall not apply to mortgages of vessels registered under the provisions of any Act in that behalf. R.S.O. 1897, c. 148, s. 34. Act not to apply to mortgages of vessels registered.

EFFECT OF REGISTERING OR OMITTING TO REGISTER.

5. Every mortgage of goods and chattels in Ontario, which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged, or a true copy thereof, shall be registered as hereinafter provided, together with Mortgages of goods not attended with change of possession, to be registered.

- (a) The affidavit of an attesting witness thereto of the due execution of such mortgage, or of the due execution of the mortgage of which the copy filed purports to be a copy, which affidavit shall also state the date of the execution of the mortgage, and
- (b) The affidavit of the mortgagee that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for

the

the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him. R.S.O. 1897, c. 148, ss. 2, 3.

6.—(1) A mortgage of goods and chattels made

Mortgage to secure future advances or endorsements.

- (a) To secure the mortgagee for advances made in pursuance of an agreement in writing to make future advances for the purpose of enabling the borrower to enter into or to carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement; or
- (b) To secure the mortgagee against the endorsement of any bill of exchange or promissory note or other liability by him incurred for the mortgagor, such liability not extending for a longer time than one year from the date of the mortgage,
may be registered in the manner prescribed by this Act if accompanied by
- (c) The affidavit of an attesting witness to the execution thereof, and,
- (d) The affidavit of the mortgagee stating that the mortgage truly sets forth the agreement and truly states the extent and amount of the advances intended to be made or liability intended to be created by the agreement and covered by the mortgage, and that the mortgage is entered into in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the liability intended to be created, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against the mortgagor. R.S.O. 1897, c. 148, ss. 7 and 8.

Effect of non-registration.

7. If the mortgage and affidavits are not registered as by this Act provided, the mortgage shall be absolutely null and void as against creditors of the mortgagor, and as against subsequent purchasers or mortgagees in good faith for valuable consideration. R.S.O. 1897, c. 148, s. 5.

8. Every sale of goods and chattels, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and such conveyance or a true copy thereof accompanied by an affidavit of an attesting witness thereto of the due execution of the conveyance, and an affidavit of the bargainee that the sale is *bona fide* and for good consideration; as set forth in the conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, shall be registered, as hereinafter provided, otherwise the sale shall be absolutely null and void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. R.S.O. 1897, c. 148, s. 6.

Sale of goods not attended with delivery to be registered.

9. Every such mortgage or conveyance shall operate and take effect upon, from and after the day and time of the execution thereof. R.S.O. 1897, c. 148, s. 4.

When mortgage to take effect.

10. Every mortgage and every conveyance or agreement required to be registered under this Act shall contain such sufficient and full description of the goods and chattels that the same may be thereby readily and easily known and distinguished. R.S.O. 1897, c. 148, s. 32.

Manner of describing property in mortgages, etc.

11. This Act shall extend to a mortgage or sale of goods and chattels, which may not be the property of, or in the possession, custody or control of the mortgagor or bargainor or any person on his behalf at the time of the making of the mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that the same may not at the time of the making of the mortgage or sale be actually procured or provided, or fit or ready for delivery, or that some act may be required for the making or completing of such goods and chattels, or rendering the same fit for delivery. R.S.O. 1897, c. 148, s. 37.

Mortgages, etc., of goods not in possession of mortgagor.

12.—(1) Every affidavit of *bona fides* required by this Act and every affidavit required upon the renewal of a chattel mortgage may be made by one of two or more bargainees or mortgagees, or by his or their agent if aware of all the circumstances and properly authorized in writing to take the conveyance or to take or renew the mortgage, or, in the case provided for by section 6, to make the agreement and to take the mortgage.

Affidavits of bona fides and on renewal of mortgage.

(2) If the mortgage or conveyance is made to a corporation the affidavit may be made by the president, vice-president

In the case of a corporation.

dent, manager, assistant manager, secretary, or treasurer, or by any other officer or agent thereof authorized to do so by resolution of the directors.

Affidavits
made by
agents or
officers.

(3) Where the affidavit is made by the agent of the mortgagee or bargainee or by an officer or agent of a corporation it shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance, and has personal knowledge of the facts deposed to. 3 Edw. VII. c. 7, s. 30. R.S.O. 1897, c. 148, ss. 2, 3, 7 and 8.

Agent's au-
thority to be
attached to
mortgage.

13. The authority in writing referred to in the next preceding section, or a copy of such authority shall be attached to and filed with the mortgage or conveyance. R.S.O. 1897, c. 148, s. 9.

Affidavit of
executor,
administrator,
next of kin,
or assignee.

14. Any affidavit by this Act required to be made by the mortgagee or by the bargainee may in the case of his death be made by any of his next of kin or by his executor or administrator, or, if the mortgage has been assigned, by his assignee. *New.*

General
authority to
take or renew
mortgages.

15. An authority to take a conveyance or to take or renew a mortgage may be a general one to take all or any conveyances to the bargainee, or to take and renew all or any mortgages to the mortgagee. R.S.O. 1897, c. 148, s. 31.

CONTRACTS TO GIVE MORTGAGES, ETC.

Contract to
give a chattel
mortgage to
be deemed a
mortgage.

16. Every covenant, promise or agreement to make, execute or give a mortgage of goods and chattels shall be in writing, and shall be deemed to be a mortgage within the meaning of this Act. R.S.O. 1897, c. 148, s. 11.

Contract to
make a sale
to be deemed
a sale.

17. Every covenant, promise or agreement to make a sale of goods and chattels shall be in writing and shall be deemed to be a sale of goods and chattels within the meaning of this Act. R.S.O. 1897, c. 148, s. 12.

REGISTRATION.

Instruments
to be register-
ed in county
or district
court clerk's
office.

18.—(1) Except in the case of the Provisional County of Haliburton the instruments mentioned in the preceding sections shall be registered in the office of the clerk of the County or District Court of the county or district in which the property mortgaged or sold is at the time of the execution thereof.

Registration
in provisional
county of
Haliburton.

(2) Where the property is situate in the Provisional County of Haliburton the instrument shall be registered in

the

the office of the clerk of the first division court of the provisional county.

(3) In the case of a county the instrument shall be registered within five days from the execution thereof. Limitation of time for registration.

(4) In the case of the Provisional County of Haliburton and of a district the instrument shall be registered within ten days from the execution thereof.

(5) The clerk shall file the instrument and endorse thereon the time of receiving it. R.S.O. 1897, c. 148, s. 15; 62 V. 2, c. 14, s. 13.

19. In the event of the permanent removal of the goods and chattels from the county, provisional county or district in which the goods and chattels were at the time of the execution of the mortgage, to another county, provisional county or district, before the payment and discharge of the mortgage, a copy of the mortgage, and of the affidavits, documents, instruments and statements relating thereto, certified under the hand of the Clerk in whose office it was registered, and under the seal of the Court, shall be filed with the proper officer as mentioned in section 18, of the county, provisional county or district to which the goods and chattels are removed within two months from such removal, otherwise the mortgage shall be null and void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith for valuable consideration. R.S.O. 1897, c. 148, s. 17. Procedure when mortgaged goods are removed.

20. The Clerk shall number every instrument or copy filed in his office, and shall enter in alphabetical order in a book to be provided by him the names of all the parties thereto, with the number indorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. R.S.O. 1897, c. 148, s. 16. Manner of registration.

RENEWAL OF MORTGAGES.

21.—(1) Except as provided in subsection 2 and subject to the provisions of section 24, every mortgage registered in pursuance of this Act shall cease to be valid, as against the creditors of the person making the same and as against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the registration thereof, unless, within thirty days next preceding the expiration of the said term of one year, a statement, Form 1, exhibiting the interest of the mortgagee, his executors, Statement of amount due to be registered within one year from registration.

executors, administrators or assigns in the mortgaged property, and showing the amount still due for principal and interest thereon, and all payments made on account thereof, is registered in the proper office, as mentioned in section 18, of the county, provisional county or district in which the mortgage was registered, with an affidavit of the mortgagee, that the statement is true, and that the mortgage has not been kept on foot for any fraudulent purpose. R.S.O. 1897, c. 148, s. 18.

Case of
permanent
removal of
goods.

(2) Where there has been a permanent removal of the goods and chattels as mentioned in section 19, and a certified copy of the mortgage has been registered as required by that section, the statement and affidavit shall be registered in the office in which such certified copy is registered, and the period of one year shall be reckoned from the date of the registration of such certified copy.

(3) Where the two months mentioned in section 19 have not expired when the period of one year mentioned in subsection 1 expires and a certified copy of the mortgage has not been registered as provided by section 19, the statement and affidavit may be registered in the office in which the mortgage was registered.

Proviso where
error or mis-
take made in
statement.

(4) If any *bona fide* error or mistake is made in the statement, either by the omission to give any credit or by any miscalculation in the computation of interest or otherwise, the statement and the mortgage therein referred to shall not be invalidated if the mortgagee, his executors, administrators or assigns within two weeks after the discovery of the error or mistake registers an amended statement and affidavit referring to the former statement and clearly pointing out the error or mistake therein and correcting the same.

Advances
made in
good faith
protected.

(5) If before the registration of such amended statement and affidavit any creditor or purchaser or mortgagee in good faith for valuable consideration has made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or has incurred any costs in proceedings taken on the faith of the amount due on the mortgage being as stated in the renewal statement and affidavit as first registered, the mortgage as to the amount so advanced or the valuable consideration given or costs incurred by such creditor, purchaser or mortgagee, shall, as against such creditor, purchaser or mortgagee, stand good only for the amount mentioned in the renewal statement and affidavit first registered. R.S.O. 1897, c. 148, s. 19.

(6) The statement and affidavit shall be deemed one instrument, and shall be registered and entered as provided by section 20. R.S.O. 1897, c. 148, s. 20.

Manner of registering and entering affidavit and statement.

(7) Another statement in accordance with the provisions of subsection 1, verified as required by that subsection, shall be registered in the proper office, according to section 18 or subsection 2 of this section, as the case may be, within thirty days next preceding the expiration of one year from the day of the registration of the statement required by subsection 1, otherwise such mortgage shall cease to be valid as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another verified statement shall be registered within thirty days next preceding the expiration of one year from the day of the registration of the former statement, otherwise such mortgage shall cease to be valid as aforesaid. R.S.O. 1897, c. 148, s. 21.

Statement to be registered annually.

(8) If the affidavit is made by an assignee, or by any of his next of kin, or by his executor or administrator, the assignment or the several assignments through which he claims shall be registered with the statement and affidavit, unless the same have been already registered.

By whom affidavits on renewals may be made.

(9) Subsection 8 shall not apply to an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or any other Act of Ontario or of Canada relating to assignments for the benefit of creditors if such assignment be referred to in the statement, and notice thereof has been given in manner required by law. R.S.O. 1897, c. 148, s. 22.

10 Edw. VII. c. 64.

22. Where a new county or district is formed, or territory is added to a county or district, every mortgage which under the provisions of this Act would otherwise require to be renewed in the county or district of which the territory forming or added to the new county or district was part, shall be renewed in the office of the proper officer of the county or district so formed or to which such territory is added, and upon such renewal a copy of the mortgage, certified under the hand of the officer in whose office it was registered and the seal of the court, shall be registered with the renewal statement and affidavit. R.S.O. 1897, c. 148, s. 35.

Mortgages where county or district boundaries altered.

SUBSEQUENT TAKING POSSESSION.

23. A mortgage or sale declared by this Act to be void or which under the provisions of section 21 has ceased to be valid as against creditors and subsequent purchasers or mort-

Subsequent possession not to validate mortgage or sale otherwise void.

gagees shall not by the subsequent taking of possession of the goods and chattels mortgaged or sold by the mortgagee or bargainee be thereby made valid as against persons who became creditors, purchasers, or mortgagees before such taking of possession. R.S.O. 1897, c. 148, s. 40.

MORTGAGES TO SECURE BONDS, ETC., OF CORPORATIONS,

Affidavits of bona fides where mortgage given by company to secure bonds or debentures.

24.—(1) In the case of a mortgage of goods and chattels made by any incorporated company to a bondholder, or to a trustee, for the purpose of securing the bonds or debentures of such company, it shall be sufficient if the affidavit of *bona fides* is to the effect that the mortgage was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them. R.S.O. 1897, c. 148, s. 23 (1); 4 Edw. VII. c. 10, s. 36.

Time for filing mortgage where head office of company not in Ontario.

(2) Where the head office of the company is not within Ontario, the mortgage may be registered within thirty days instead of five days, as provided by section 18.

Renewal of mortgages.

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 21 by the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the mortgage, and showing the amount of the bond or debenture debt which the same was made to secure, and showing all payments on account thereof which to the best of the information and belief of the person making such statement, have been made, or of which he is aware or has been informed, together with an affidavit of the person making such statement, that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by section 21.

Renewal of mortgages given to secure debentures of companies.

(4) Where the mortgage is made as a security for debentures and the by-law authorizing the issue of the debentures, as a security for which the mortgage was made, or a copy thereof, certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit thereto attached or endorsed thereon, and having the corporate seal attached thereto, is registered with the mortgage, it shall not be necessary to renew the mortgage, but the same shall in such case continue to be as valid as if it had been duly renewed as in this Act provided.

(5) The next preceding subsection shall apply to every such mortgage made and registered after the 5th day of May, 1894, but nothing herein shall affect any accrued rights or any litigation pending on the 13th day of April, 1897. R.S.O. 1897, c. 148, s. 23 (2-6).

25.—(1) In the case of a mortgage securing bonds made by an incorporated company on rolling stock owned by it, it shall be sufficient for the purposes of this Act if the mortgage or a copy thereof and the affidavit in subsection 1 of the next preceding section referred to be filed in the office of the Provincial Secretary within the time limited by this Act for registering a mortgage to secure bonds or debentures of an incorporated company.

Mortgage of rolling stock to be filed in office of Provincial Secretary.

(2) The office of the Provincial Secretary shall be the place for filing the renewal statements of any such mortgage of rolling stock where renewal thereof is necessary under this Act.

(3) Subsections 1 and 2 shall apply to any such mortgage on rolling stock heretofore made, if the same has been filed as therein provided. 3 Edw. VII. c. 7, s. 60.

26.—(1) In the case of a mortgage, hypothec or other instrument made by an incorporated company securing bonds, debentures, notes or other securities on any rolling stock which is subject to any lease, conditional sale or bailment to a railway company, the same or a copy thereof may be filed in the office of the Provincial Secretary within 21 days from the execution thereof, and if so filed shall be as valid as against creditors of such company and subsequent purchasers as if the same had been registered pursuant to the provisions of this Act.

Mortgage to secure bonds, etc., on leased rolling stock.

(2) Notice of the filing shall forthwith thereafter be given in the *Ontario Gazette*. (See 6 Edw. VII. c. 38, s. 7, (Dom.); 8 Edw. VII. c. 33, ss. 41 and 42.

(3) In case any such mortgage, hypothec or other instrument made before the 14th day of April, 1908, or a copy thereof had been filed in the office of the Provincial Secretary within ninety days from that date, the same shall be as valid as against creditors of such company and purchasers or mortgagees, becoming such creditors, purchasers or mortgagees subsequent to that date as if it had been registered pursuant to the provisions of this Act.

As to mortgages made before 14th April, 1908.

PROOF OF REGISTRATION.

Evidence by
certified copy

27. A copy of any instrument or document registered under this Act and of any endorsement thereon certified under the hand of the officer with whom the same is registered and under the seal of the court or where the same is filed in the office of the Provincial Secretary under the hand of the Provincial Secretary or Assistant Provincial Secretary, shall be received as evidence by all courts that the instrument or document was received and registered or filed according to the endorsement thereon. R.S.O. 1897, c. 148, s. 24.

DISCHARGE OF MORTGAGES.

Certificates
of discharge
of chattel
mortgages.

28. A mortgage registered under this Act may be discharged by registering in the office in which the mortgage is registered a certificate, Form 2, signed by the mortgagee, his executors, administrators or assigns. R.S.O. 1897, c. 148, s. 25.

Entering
certificates of
discharge.

29.—(1) The officer with whom the mortgage is registered upon receiving such certificate, proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 20, or wherever otherwise in such book the mortgage has been entered, write the words "Discharged by Certificate Number (*stating the number of the certificate*)," and to such entry the officer shall subscribe his name, and he shall also endorse the fact of the discharge upon the instrument discharged, and shall subscribe his name to the endorsement. R.S.O. 1897, c. 148, s. 26.

Entries of
renewal.

(2) Where a mortgage has been renewed under section 21, the endorsement or entries required by the next preceding subsection need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in such book. R.S.O. 1897, c. 148, s. 27.

(3) A certificate of discharge by an assignee shall not be registered unless and until the assignment is registered.

Entry of as-
signment of
mortgages.

(4) The assignment shall, upon proof by the affidavit of a subscribing witness, be registered, numbered and entered in such book, in the same manner as a mortgage. R.S.O. 1897, c. 148, s. 28.

FEES.

Fees.

30. For services under this Act the officers shall be entitled to the following fees:

(a) For registering each instrument or copy or renewal statement, fifty cents;

(b)

- (b) For registering an assignment, twenty-five cents;
- (c) For registering a certificate of discharge, twenty-five cents;
- (d) For a general search, twenty-five cents;
- (e) For production and inspection of any instrument or document, ten cents;
- (f) For copies of any instrument or document and certifying the same, ten cents for every hundred words;
- (g) For extracts, whether made by the person making the search or by the officer, ten cents for every hundred words. R.S.O. 1897, c. 148, s. 29.

INSPECTION OF BOOKS AND INSTRUMENTS.

31.—(1) Every person shall on payment of the proper fees have access to and be entitled to inspect the books containing records or entries of mortgages, conveyances or assignments registered.

Inspection of books in County Court office.

(2) A person desiring such access or inspection shall not be required, as a condition to his right thereto, to furnish the names of the persons in respect of whom such access or inspection is sought.

(3) The Clerk shall upon demand produce for inspection any such mortgage, conveyance, assignment or copy thereof registered in his office. R.S.O. 1897, c. 148, s. 36.

STATISTICAL RETURNS.

32.—(1) Every officer with whom instruments are required to be registered under the provisions of this Act shall, on or before the 15th day of January in each year, transmit to the Minister of Agriculture a return which shall set out:

Returns of chattel mortgages, etc., to be made by clerks.

- (a) The number of undischarged mortgages on record in his office on the 1st day of January in the year next preceding that in which the return is made;
- (b) The number of mortgages and renewals, the number of discharges, and the number of assignments

ments

ments for the benefit of creditors registered during the year following the said 1st day of January; and

- (c) The number of undischarged mortgages on record in his office on the 31st day of December in said year.

(2) The return shall not include instruments which have lapsed by reason of non-renewal.

(3) The occupations or callings of the mortgagors or assignors as stated in the instruments shall be classified and the return shall show the aggregate sums purporting to be secured by the mortgages in each class.

(4) The return shall, where practicable, distinguish mortgages to secure endorsements or future advances from mortgages to secure existing debts or present advances. R.S.O. 1897, c. 148, s. 42.

Repeal.

33. Chapter 148 of The Revised Statutes, 1897, except section 41, and all amendments thereto, are repealed.

Commence-
ment of Act.

34. This Act shall come into force and take effect on, from and after the 1st day of September, 1910.

FORM 1.

RENEWAL STATEMENT.

Statement exhibiting the interest of _____ in the property mentioned in the mortgage dated the _____ day of _____, 19____, made between _____ of _____ the one part, and _____, of _____ of the other part, and registered in the office of the Clerk of the _____ Court of the _____ of _____, on the _____ day of _____, 19____, and of the amount due for principal and interest thereon, and of all payments made on account thereof.

The said _____, is still the mortgagee of the said property, and has not assigned the said mortgage (or the said _____ is the assignee of the said mortgage by virtue of an assignment thereof from the said _____ to him, dated the _____ day of _____, 19____), (or as the case may be).

No payments have been made on account of the said mortgage (or the following payments, and no other, have been made on account of the said mortgage:

19____, January 1, Cash received.....\$100.00)

The amount still due for principal and interest on the said mortgage is the sum of \$_____ made up as follows: (*here give the items*).

A. B.,

(*Signature of Mortgagee or Assignee.*)

County

County (or District) of

To wit,

I, _____ of _____ of the _____
of _____ the mortgagee named in the mortgage men-
tioned in the foregoing (or annexed) statement (or assignee of the
mortgagee named in the mortgage mentioned in the foregoing [or
annexed] statement) (*as the case may be*), make oath and say:

1. That the foregoing (or annexed) statement is true.
2. That the mortgage mentioned in the said statement has not
been kept on foot for any fraudulent purpose.

A. B.

Sworn before me at the _____
of _____ in the _____
of _____, this _____
day of _____ 19 ____.

E. F.,

A Commissioner, etc.

R.S.O. 1897, c. 148, Sched. B.

FORM 2.

DISCHARGE OF MORTGAGE.

To the Clerk of the _____ Court of the _____ of _____.

I, _____ of _____ do certify that _____ has satisfied all
money due, or to grow due on a certain mortgage made by
to _____, which mortgage bears date the
day of _____ 19 __, and was registered
(or in case the mortgage has been renewed was last renewed), in
the office of the Clerk of the _____ Court of the _____ of
_____, on the _____ day of _____ 19 __, as
No. _____ (here mention the date of registration of each assign-
ment thereof, and the names of the parties, or mention that such
mortgage has not been assigned, as the fact may be); and that I
am the person entitled by law to receive the money, and that such
mortgage is therefore discharged.

Witness my hand, this _____ day of _____ 19 ____.

Witness,

A. B.,

C. D. _____ (*Signature of Mortgagee or Assignee.*)

R.S.O. 1897, c. 148, Sched. A.

CHAPTER 66.

An Act respecting Contracts in relation to Goods in the Possession of Agents and others.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

DISPOSITIONS BY MERCANTILE AGENTS.

Powers of mercantile agents as to disposition of goods, s. 3.

Effect of pledge of documents of title, s. 4.

Pledge for antecedent debt, s. 5.

Rights acquired by exchange of goods or documents, s. 6.

Agreements through clerks, s. 7.

Provisions as to consignors and consignees, s. 8.

DISPOSITION BY SELLERS AND BUYERS OF GOODS.

Disposition by seller remaining in possession, s. 9.

Disposition by buyer retaining possession, s. 10.

Effect of sale or pledge by buyer, s. 11.

SUPPLEMENTAL.

Mode of transferring documents, s. 12.

Saving for rights of true owner, s. 13.

Saving for common law powers of agents, s. 14.

REPEAL, s. 15.

COMMENCEMENT OF ACT, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.
Imp. Act, 52
and 53 V. c.
45, s. 17.

Interpreta-
tion. Idem
s. 1.

Document
of title.

10 Edw. VII.,
c. 63.

1. This Act may be cited as "*The Factors Act.*"

2.—(1) In this Act,—

(a) "Document of title" shall include any bill of lading and warehouse receipt, as defined by *The Mercantile Law Amendment Act*, any warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented;

Goods. (b) "Goods" shall include wares and merchandise;

Mercantile agent. (c) "Mercantile agent" shall mean a mercantile agent having in the customary course of his business

as

as such agent authority either to sell goods, or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods;

- (d) "Pledge" shall include any contract pledging or giving a lien or security on goods, whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability. Pledge.

(2) A person shall be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or on his behalf. Possession.

DISPOSITIONS BY MERCANTILE AGENTS.

3.—(1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, any sale, pledge or other disposition of the goods, made by him when acting in the ordinary course of business of a mercantile agent, shall, subject to the provisions of this Act, be as valid as if he were expressly authorized by the owner of the goods to make the same; provided that the person taking under the disposition acts in good faith, and has not at the time thereof notice that the person making the disposition has not authority to make the same. Powers of mercantile agent as to disposition of goods.
Idem, s. 2.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of documents of title to goods, any sale, pledge or other disposition which would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent; provided that the person taking under the disposition acts in good faith and has not at the time thereof notice that the consent has been determined. Revocation of consent.

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been, with the consent of the owner, in possession of the goods represented thereby, or of any other documents of title to the goods, his possession of the first mentioned documents shall, for the purposes of this Act, be deemed to be with the consent of the owner. Derivative documents.

(4) For the purposes of this Act the consent of the owner shall be presumed in the absence of evidence to the contrary. Presumption.

4. A pledge by a mercantile agent of the documents of title to goods shall be deemed to be a pledge of the goods. Effect of pledge of documents of title.
5 Idem, s. 3.

Pledge for
antecedent
debt.
Idem, s. 4.

5. Where a mercantile agent pledges goods as security for a debt due from or liability incurred by the pledgor to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledgor at the time of the pledge.

Rights
acquired by
exchange of
goods or
documents.
Idem, s. 5.

6. The consideration necessary for the validity of a sale, pledge or other disposition of goods by a mercantile agent, in pursuance of this Act, may be either a payment in cash, or the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or of other valuable consideration, the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, document, security or other valuable consideration when so delivered or transferred in exchange.

Agreements
through
clerks, etc.
Idem, s. 6.

7. For the purposes of this Act an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent.

Provisions as
to consignors
and con-
signees.
Idem, s. 7.

8.—(1) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee shall, in respect of advances made in good faith to or for the use of such person, have the same lien on the goods as if such person were the owner of the goods, and may transfer any such lien to another person.

(2) Nothing in this section shall limit or affect the validity of any sale, pledge or disposition by a mercantile agent.

DISPOSITION BY SELLERS AND BUYERS OF GOODS.

Disposition
by seller
remaining in
possession.

9. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof, or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

10.—(1) Where a person, having bought or agreed to buy goods, obtains with the consent of the seller possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title, under any sale, pledge or other disposition thereof, or under any agreement for sale, pledge or other disposition thereof, to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

Disposition by buyer retaining possession. Idem, s. 9.

(2) This section shall not apply to goods the possession of which are obtained under a contract coming within the meaning of *The Conditional Sales Act* where the seller has complied with the provisions of that Act.

Exception as to contracts under The Conditional Sales Act. Rev. Stat., c. 149.

11. Subject to the provisions of this Act the unpaid seller's right of lien or retention or stoppage in transitu shall not be affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto; Provided that where a document of title to goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the same in good faith and for valuable consideration, then if such last mentioned transfer was by way of sale the unpaid seller's right of lien or retention or stoppage in transitu shall be defeated; and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage in transitu can only be exercised subject to the rights of the transferee.

Effect of sub-sale or pledge by buyer. Imp. Act, 56 and 57 V. c. 71, s. 47.

SUPPLEMENTAL.

12. For the purposes of this Act the transfer of a document of title may be by endorsement, or where the document is by custom or by its express terms, transferable by delivery, or makes the goods deliverable to the bearer, then by delivery.

Mode of transferring documents. Imp. Act, 52 and 53 V. c. 45, s. 11.

13.—(1) Nothing in this Act shall authorize an agent to exceed or depart from his authority as between himself and his principal, or exempt him from any liability for so doing.

Saving for rights of true owner. Idem, s. 12.

(2) Nothing in this Act shall prevent the owner of goods from recovering them from his agent at any time before the sale or pledge thereof, or shall prevent the owner of goods pledged by an agent from having the right to redeem the goods

goods at any time before the sale thereof, on satisfying the claim for which the goods were pledged, and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto, or any of them, by way of lien as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3) Nothing in this Act shall prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same, or any part of that price, subject to any right of set off on the part of the buyer against the agent.

Saving for
common law
powers of
agents.
Idem, s. 13.

14. The provisions of this Act shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Act.

Repeal.

15. Chapter 150 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Commence-
ment of Act.

16. This Act shall come into force and take effect on, from and after the 1st day of September, 1910.

CHAPTER 67.

An Act respecting Limited Partnerships.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	Partnership not deemed formed until filed, s. 10.
LIMITED PARTNERSHIPS MAY BE FORMED, s. 2.	CERTIFICATES OF RENEWAL, s. 11.
GENERAL AND SPECIAL PARTNERS, ss. 3-5.	ALTERATIONS, WHEN DEEMED A DISSOLUTION, s. 12.
CERTIFICATE OF SUCH PARTNERSHIP:	PARTNERSHIP NAME, s. 13.
Contents and form, ss. 6, 7.	LIABILITIES OF GENERAL AND SPECIAL PARTNERS, ss. 14-18.
Where to be filed and fees, ss. 8, 9.	NO PREMATURE DISSOLUTION WITHOUT NOTICE, s. 19.
	REPEAL, s. 20.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as “*The Limited Partnership Act.*” Short title.

2. A limited partnership for the transaction of any mercantile, mechanical, manufacturing or other business within Ontario, except banking, the construction or operation of railways or the business of insurance may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned. R.S.O. 1897, c. 151, s. 1. Limited partnerships may be formed.

3. The partnership may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners. R.S.O. 1897, c. 151, s. 2. Of whom to consist.

4. General partners shall be jointly and severally responsible as general partners are by law, but special partners shall not be liable for the debts of the partnership beyond the amounts by them contributed to the capital. R.S.O. 1897, c. 151, s. 3. Liability of general and special partners.

General partners only to transact business, etc.

5. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same. R.S.O. 1897, c. 151, s. 4.

Certificate to be signed.

6. The persons desirous of forming such partnership shall make and each of them shall sign a certificate, Form 1, which shall contain—

Contents of.

- (a) The name under which the partnership business is to be carried on;
- (b) The general nature of the business intended to be carried on;
- (c) The names of all the general and special partners, distinguishing which are general and which are special partners, and their usual places of residence;
- (d) The amount of capital which each special partner has contributed;
- (e) The time when the partnership is to commence and the time at which it is to terminate. R.S.O. 1897, c. 151, s. 5.
- (f) The principal place of business of the partnership.

Execution of.

7. The certificate shall be signed by the persons forming the partnership, before a Notary Public, who shall certify to the execution of the same. R.S.O. 1897, c. 151, s. 6.

Where to be filed.

8. The certificate so signed and certified shall be filed in the office of the Clerk of the County or District Court of the county or district in which the principal place of business named in the certificate is situate, and shall be recorded by him at full length in a book to be kept for that purpose and open to public inspection. R.S.O. 1897, c. 151, s. 7.

Fees.

9. For filing and recording the certificate the Clerk shall be entitled to receive the sum of twenty-five cents, and shall also be entitled to receive from every person searching in the book where such certificate is so recorded the sum of ten cents for each search. R.S.O. 1897, c. 151, s. 8.

Partnership not formed until certificate filed.

10. No such partnership shall be deemed to have been formed until the certificate has been made, certified, and filed; and if any false statement is made in the certificate, all the members of the partnership shall be liable for all the engagements thereof as general partners. R.S.O. 1897, c. 151, s. 9.

11. Every renewal or continuance of a partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation; and every partnership otherwise renewed or continued, shall be deemed a general partnership. R.S.O. 1897, c. 151, s. 10.

Certificates of continuance.

12. Every alteration made in the partnership name, in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other manner specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made shall be deemed a general partnership, unless renewed as a limited partnership, according to the provisions of the next preceding section. R.S.O. 1897, c. 151, s. 11.

What alterations to be deemed a dissolution.

13. The business of the partnership shall be conducted under a name in which the names of the general partners, or some or one of them, only shall be used; and if the name of a special partner is used therein with his privity, he shall be deemed a general partner. R.S.O. 1897, c. 151, s. 12.

Partnership name.

14. No part of the sum which a special partner has contributed to the capital shall be withdrawn by him, or paid or transferred to him as dividends, profits or otherwise, during the continuance of the partnership; but any partner may annually receive interest at a rate not exceeding five per cent. per annum on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if, after the payment of such interest, any profits remain to be divided, he may also receive his share of such profits. R.S.O. 1897, c. 151, s. 14.

Restrictions upon stock of special partners.

15. If by the payment of interest or profits to a special partner the original capital has been reduced, he shall be liable to restore the amount by which his share of the capital has been so reduced with interest. R.S.O. 1897, c. 151, s. 15.

When special partner liable to refund.

16. A special partner may from time to time examine into the state and progress of the partnership business, and may advise as to its management; but he shall not transact any business on account of the partnership, or be employed for that purpose as agent, or otherwise: and if he does so, he shall be deemed a general partner. R.S.O. 1897, c. 151, s. 16.

Privileges of special partners.

General part-
ners liable to
account.

17. The general partners shall be liable to account to each other and to the special partners for their management of the business in like manner as other partners. R.S.O. 1897, c. 151, s. 17.

Creditors
preferred to
special part-
ners.

18. In case of the insolvency or bankruptcy of the partnership, a special partner shall not, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R.S.O. 1897, c. 151, s. 18.

No premature
dissolution
without no-
tice, etc.

19. No dissolution of such partnership by the acts of the parties shall take place before the time specified in the certificate of its formation or of its renewal, until a notice of such dissolution has been filed in the office in which the original certificate was filed and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business, and for the same time in the *Ontario Gazette*. R.S.O. 1897, c. 151, s. 19.

Repeal.

20. Chapter 151 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

CERTIFICATE.

We, the undersigned, do hereby certify that we have entered into partnership under the name of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____, and (*C. D.*) residing usually at _____, as General Partners; and (*E. F.*) residing usually at _____, and (*G. H.*) residing usually at _____, as Special Partners. The said (*E. F.*) having contributed (\$4,000) and the said (*G. H.*) (\$8,000) to the Capital of the Partnership.

The principal place of business of the Partnership is at _____, The said Partnership is to commence on the _____ day of _____, 19____, and is to terminate on the _____ day of _____, 19____.

Dated this _____ day of _____, 19____.

(Signed,) *A. B.*
C. D.
E. F.
G. H.

Signed in the presence of me,
L. M.
Notary Public. _____

R.S.O. 1897, c. 151, Sched.

CHAPTER 68.

An Act respecting the Registration of Partnerships.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	DECLARATION BY PERSON TRADING
DECLARATIONS OF PARTNERSHIP TO	UNDER A BUSINESS NAME NOT
BE FILED, s. 2.	HIS OWN, s. 9.
Form, s. 3.	PENALTY FOR NOT FILING DECLARA-
When to be filed, s. 4.	TION, s. 10.
Declaration where alteration	REGISTRATION OF DECLARATIONS,
in partnership, s. 5.	s. 11.
Allegations of declarations	Furnishing books, s. 12.
not controvertible by the	ACT NOT TO APPLY TO CHEESE
signers, s. 6.	MANUFACTURING COMPANIES,
DECLARATION OF DISSOLUTION, s.	s. 13.
7.	NOT TO AFFECT RIGHTS OF PART-
Signers to be partners until a	NERS INTER SE, s. 14.
new declaration filed, s. 8.	REPEAL, s. 15.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as “*The Partnership Registra-* Short title.
tion Act.”

2.—(1) Persons associated in partnership for trading, Persons in
manufacturing or mining purposes shall cause to be filed partnership to
with the Registrar of the registry division in which they deliver a
carry or intend to carry on business, a declaration in writing, declaration to
Form 1, signed by all the members of the partnership. the Registrar.

(2) Where at the time of making the declaration any When some of
member is absent from the place where the partnership the parties
carries on or intends to carry on business, the declaration are absent.
shall be signed by the members present in their own names,
and also for any absent member, under his special authority
to that effect, and such special authority shall at the same
time be filed with the registrar and annexed to the declara-
tion. R.S.O. 1897, c. 152, s. 1.

3. The declaration shall contain the names, surnames, Requisites of
additions and residences of every partner, and the name un- declaration.
der which they carry on or intend to carry on business and
shall state also the time during which the partnership has
subsisted

subsisted, and shall also state that the persons therein named are the only members of the partnership. R.S.O. 1897, c. 152, s. 2.

Time of filing declaration.

4. The declaration shall be filed within six months next after the formation of the partnership. R.S.O. 1897, c. 152, s. 3.

Declaration where change in partnership.

5.—(1) A similar declaration shall in like manner be filed whenever any change takes place in the membership of the partnership, or in the name under which it carries on business, and every such declaration shall state the change in the membership of the partnership or in its name. R.S.O. 1897, c. 152, s. 4.

(2) The declaration shall be filed within six months after the change takes place. *New.*

Allegations in the declaration not to be controvertible by parties signing.

6. The statements made in any declaration shall not be controvertible by any person who has signed the same, nor as against any person not being a member of the partnership by any person who has signed the same, or who was really a member of the partnership therein mentioned at the time the declaration was made. R.S.O. 1897, c. 152, s. 5.

Declaration of dissolution of partnership.

7. Upon the dissolution of a partnership, any or all of the persons who composed the partnership may sign a declaration, Form 2, certifying the dissolution of the partnership. R.S.O. 1897, c. 152, s. 6.

Persons signing declaration to be deemed partners till new declaration is filed.

8.—(1) Until a new declaration is made and filed by him, or by his partners or any of them, no person who signed the declaration filed shall be deemed to have ceased to be a partner.

Liability of partners failing to declare the same.

(2) Nothing herein shall exempt from liability any person who, being a partner, fails to make and file the prescribed declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment is recovered against them, he may be sued on the original cause of action upon which the judgment was recovered. R.S.O. 1897, c. 152, s. 7.

A person whose business style indicates plurality to file a declaration.

9.—(1) Every person engaged in business for trading, manufacturing, or mining purposes, who is not associated in partnership with any other person, but uses as his business style some name or designation other than his own name, or who in such style uses his own name with the addi-

tion

tion of "and Company," or some other word or phrase indicating a plurality of members in the firm, shall cause to be filed with the registrar of the registry division in which such person carries on or intends to carry on business, a declaration in writing, signed by such person. R.S.O. 1897, c. 152, s. 9.

(2) Such declaration shall contain the name, surname, addition, and residence of the person making the same, and the name under which he carries on or intends to carry on business, and shall also state that no other person is associated with him in partnership; and such declaration shall be filed within six months of the time when such name is first used. R.S.O. 1897, c. 152, s. 10.

Form of declaration.

10. Every member of a partnership or other person required to file a declaration under the provisions of this Act who fails to comply with the requirements thereof shall incur a penalty of \$100, to be recovered in any Court of competent jurisdiction. R.S.O. 1897, c. 152, s. 11.

Penalty for non-compliance.

(See *Fines, Penalties and Forfeitures.* 7 *Edw. VII.*, c. 26, s. 1.)

11.—(1) The registrar shall enter the declarations in the order in which the same are received in a book to be by him kept for that purpose, which shall at all times during office hours be open to the inspection of the public without charge.

Registrar to record declaration.

(2) For filing and entering each declaration the registrar shall be entitled to receive from the person filing the same fifty cents if it does not contain more than two hundred words, and at the rate of ten cents per hundred words for all above the number of two hundred. R.S.O. 1897, c. 152, s. 12.

Registrar's fee for filing.

(3) The registrar shall keep two alphabetical index books of all declarations filed with him. R.S.O. 1897, c. 152, s. 13.

Registrar to keep two indexes.

(4) In one of such books, hereinafter called the "Firm Index," the registrar shall enter in alphabetical order the names of the firms in respect to which declarations have been filed with him, and shall place opposite each entry the names of the persons composing the firm, and the date of the receipt by him of the declaration, in the manner shewn in Form 3. R.S.O. 1897, c. 152, s. 14.

Form of "Firm Index."

Form of "Individual Index."

(5) In the second of such books, hereinafter called the "Individual Index," the registrar shall enter in alphabetical order the names of the respective members of each firm, and shall place opposite the entry the names of the firm of which each person is a member, and the date of the receipt of the declaration, in the manner shewn in Form 4. R.S.O. 1897, c. 152, s. 15.

Registrar's fees for certain services.

(6) The registrar shall be entitled for searches to the following fees and no more:

For searching in Firm Index—each firm ten cents;
For searching in Individual Index—each name ten cents;
For each certificate, when required—twenty-five cents.

R.S.O. 1897, c. 152, s. 16.

Who to furnish registry books.

12. The books required for the purposes of this Act shall be furnished by the treasurer of the municipality whose duty it is to furnish registry books, or in case of his default, by the registrar, in the same manner as other registry books. R.S.O. 1897, c. 152, s. 17.

Butter or cheese manufacturing Cos. excepted.

13. This Act shall not apply to associations of individuals for the manufacture of butter or cheese and contributing produce from their dairies for that purpose. R.S.O. 1897, c. 152, s. 18.

Act not to affect rights of partners inter se.

14. Nothing in this Act shall affect the rights of partners with regard to each other. R.S.O. 1897, c. 152, s. 7, *part*.

Repeal.

15. Chapter 152 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

DECLARATION OF PARTNERSHIP.

County or District) of
We of in
pation) and of in (occu-
(occupation), hereby certify

1. That we have carried on and intend to carry on trade and business as at in partnership, under the name of

2. That the said partnership has subsisted since the day of 19 .

3. And that we are and have been since the said day the only members of the said partnership.

Witness our hands at this day of 19 .

A. B.
C. D.

R.S.O. 1897, c. 152, Sched. A.

FORM

FORM 2.

DECLARATION OF DISSOLUTION OF PARTNERSHIP.

County (or District) { I,
of { formerly a member of the firm carrying on
 { business as

at , in the of , under
the name of do hereby certify that the said
partnership was on the day of 19 , dissolved.

Witness my hand, at , the . day of
 , 19 .

A. B.

R.S.O. 1897, c. 152, Sched. B.

FORM 3.
FIRM INDEX.

NAME OF FIRM.	NAMES OF PERSONS COMPOSING THE FIRM.	DATE OF FILING DECLARATION.
Abbott, Black & Co.	George Abbott, John Black, Edward Cook.	10th February, 19—.
Bernard, Green & Jones	John Bernard, Edward Green, John Jones.	12th February, 19—.
Cook (Thos.) & Co.	Thomas Cook, James Wilson.	14th February, 19—.
Dadson, William.	William Dadson, Thomas Jones, Robert Watson, William Wilberforce, James Johnson	14th February, 19—.
Dick & Co.	Richard Dick	15th May, 19—.
Dow (Wm.) & Sons	William Dow	19th May, 19—.
R.S.O. 1897, c. 152, Sched. C.		

FORM 4.
INDIVIDUAL INDEX.

NAME OF INDIVIDUAL.	NAME OF FIRM OF WHICH A MEMBER.	DATE OF FILING DECLARATION.
Abbott, George	Abbott, Black & Co.	10th February, 19—.
Black, John	Abbott, Black & Co.	10th February, 19—.
Bernard, John	Bernard, Green & Jones.	12th February, 19—.
Cook, Edward	Abbott, Black & Co.	10th February, 19—.
Cook, Thomas	Thomas Cook & Co.	14th February, 19—.
Dadson, William	William Dadson	14th February, 19—.
Dick, Richard	Dick & Co.	14th February, 19—.
Dow, William	Wm. Dow & Sons	15th May, 19—.
		19th May, 19—.
R.S.O. 1897, c. 152, Sched. D.		

CHAPTER 69.

An Act respecting Liens of Mechanics, Wage-Earners and Others.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	MATERIALS NOT TO BE REMOVED
INTERPRETATION, s. 2.	TO PREJUDICE OF LIEN, s. 16.
APPLICATION OF ACT, s. 3.	REGISTRATION OF CLAIM, ss. 17-
CONTRACTS WAIVING RIGHTS UN- DER ACT VOID, s. 4.	22.
WHO ENTITLED TO LIEN, s. 5.	WHEN LIEN SHALL CEASE, ss. 23-
HUSBAND TO BE DEEMED WIFE'S AGENT, s. 6.	25.
CONTRACTS NOT TO DEPRIVE A THIRD PARTY OF LIEN, s. 7.	DEATH OF LIENHOLDER, s. 26.
PROPERTY ON WHICH LIEN AT- TACHES, s. 8.	DISCHARGE OF LIEN, s. 27.
INSURANCE MONEY, s. 9.	TAKING SECURITY NOT TO PREJU- DICE, ss. 28, 29.
LIMIT OF OWNER'S LIABILITY, ss. 10, 11.	LIENHOLDERS ENTITLED TO INFOR- MATION FROM OWNERS, s. 30.
PERCENTAGE TO BE RETAINED BY OWNER, s. 12.	ENFORCING LIENS BY ACTION, ss. 31-39.
OWNER MAY PAY LIENHOLDERS, s. 13.	NEW TRIAL AND APPEALS, s. 40.
OVER WHAT, LIENS SHALL HAVE PRIORITY, s. 14.	COSTS, ss. 41-46.
LIEN FOR WAGES, s. 15.	PAYMENT OUT, OF MONEYS IN COURT, s. 47.
	PERSONAL JUDGMENT, ss. 48, 49.
	PERSONS ENTITLED TO LIEN ON CHATELS MAY SELL SAME, s. 50.
	REPEAL, s. 51.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of On-
tario, enacts as follows:—

1. This Act may be cited as "*The Mechanics and Wage-Earners Lien Act.*" R.S.O. 1897, c. 153, s. 1. Short title.

2. In this Act,

Interpretation.

(a) "Contractor" shall mean a person contracting "Contractor."
with or employed directly by the owner or his
agent for the doing of work or service or plac-
ing or furnishing materials for any of the pur-
poses mentioned in this Act;

(b) "Material" or "materials" shall include every "Material."
kind of movable property;

(c)

"Owner."

(c) "Owner" shall extend to any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the land upon or in respect of which the work or service is done, or materials are placed or furnished, at whose request and

(i) Upon whose credit or

(ii) On whose behalf or

(iii) With whose privity and consent or

(iv) For whose direct benefit

work or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;

Registrar.

(d) "Registrar" shall include Master of Titles and Local Master of Titles.

"Registry office."

(e) "Registry Office" shall include Land Titles Office;

"Sub-contractor."

(f) "Sub-contractor" shall mean a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another sub-contractor;

"Wages."

(g) "Wages" shall mean money earned by a mechanic or labourer for work done, whether by the day or other time or as piece work. R.S.O. 1897, c. 153, s. 2.

Act not to apply to streets or highways.

3. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon. R.S.O. 1897, c. 153, s. 7 (1); 1 Edw. VII. c. 12, s. 30.

Contracts waiving application of Act to be void.

4.—(1) Every agreement, verbal or written, express or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to a manager, officer or foreman or to any other person whose wages are more than \$5 a day. R.S.O. 1897, c. 153, s. 3.

NATURE AND EXTENT OF LIEN.

5. No agreement shall deprive any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it shall attach, notwithstanding such agreement. R.S.O. 1897, c. 153, s. 6.

6. Unless he signs an express agreement to the contrary, and in that case subject to the provisions of section 4, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, or the appurtenances to any of them, for any owner, contractor or sub-contractor, shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit and ornamental trees, and appurtenances, and the land occupied thereby or enjoyed therewith, or upon or in respect of which such work or service is performed, or upon which such materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner. R.S.O. 1897, c. 153, s. 4.

7. Where work or service is done or materials are furnished upon or in respect of the land of a married woman with the privity and consent of her husband he shall be conclusively presumed to be acting as well for himself so as to bind his own interest, and also as her agent for the purposes of this Act, unless before doing such work or service or furnishing such materials the person doing or furnishing the same shall have had actual notice to the contrary. R.S.O. 1897, c. 153, s. 5.

8.—(1) The lien shall attach upon the estate or interest of the owner in the property mentioned in section 6.

(2) Where the estate or interest upon which the lien attaches is leasehold the fee simple may also, with the consent

Contracts not to deprive third party of lien.

Nature of lien.

Work done or materials furnished on lands of married women.

Property upon which lien shall attach.

Where estate charged is leasehold.

sent of the owner thereof, be subject to the lien, provided that such consent is testified by the signature of the owner upon the claim of lien at the time of the registering thereof, verified by affidavit.

Prior mortgage.

(3) Where the land upon or in respect of which any work or service is performed, or materials are placed or furnished to be used, is incumbered by a prior mortgage or other charge, and the selling value of the land is increased by the work or service, or by the furnishing or placing of the materials, the lien shall attach upon such increased value in priority to the mortgage or other charge. R.S.O. 1897, c. 153, s. 7 (2-3).

Application of insurance when lien attaches.

9. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed, and shall be subject to the claims of all persons for liens to the same extent as if such money was realized by a sale of such property in an action to enforce the lien. R.S.O. 1897, c. 153, s. 8.

Limit of amount of lien.

10. Save as herein otherwise provided the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1897, c. 153, s. 9.

Limit of lien when claimed by some other than contractor.

11. Save as herein otherwise provided where the lien is claimed by any person other than the contractor, the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or sub-contractor or other person for whom the work or service has been done or the materials placed or furnished. R.S.O. 1897, c. 153, s. 10.

Percentage to be deducted and retained by owner for thirty days.

12.—(1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or materials are furnished under the contract, deduct from any payments to be made by him in respect of the contract, and retain for a period of thirty days after the completion or abandonment of the contract twenty per cent. of the value of the work, service and materials actually done, placed or furnished as mentioned in section 6, and such value shall be calculated on the basis of the contract price, or if there is no specific contract price then on the basis of the actual value of the work, service or materials.

Where contract price exceeds \$15,000.

(2) Where the contract price or actual value exceeds \$15,000 the amount to be retained shall be fifteen per cent. instead of twenty per cent.

(3) The lien shall be a charge upon the amount directed to be retained by this section in favour of sub-contractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

Lien to be charge on amounts retained.

(4) All payments up to eighty per cent., or eighty-five per cent. where the contract price or actual value exceeds \$15,000, of such price or value made in good faith by an owner to a contractor, or by a contractor to a sub-contractor, or by one sub-contractor to another sub-contractor before notice in writing of such lien given by the person claiming the lien to him, shall operate as a discharge *pro tanto* of the lien.

Payments made in good faith without notice of lien.

(5) Payment of the percentage required to be retained under subsections 1 and 2 may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against such percentage as provided by sections 23 and 24. R.S.O. 1897, c. 153, s. 11.

13. If an owner, contractor or sub-contractor makes a payment to any person entitled to a lien under section 6 for or on account of any debt justly due to him for work or service done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives, by letter or otherwise, written notice of such payment to the person primarily liable, or his agent, such payment shall be deemed to be a payment on his contract generally to the contractor or sub-contractor primarily liable but not so as to affect the percentage to be retained by the owner, as provided by section 12. R.S.O. 1897, c. 153, s. 12.

Payments made direct by owner to persons entitled to lien.

14.—(1) The lien shall have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after such lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of a claim for such lien as hereinafter provided.

Priority of lien.

(2) Where there is an agreement for the purchase of land, and the purchase money or part thereof is unpaid, and no conveyance has been made to the purchaser, he shall, for the purposes of this Act, be deemed a mortgagor and the seller a mortgagee.

Agreements for purchase where part of purchase money unpaid.

Priority
among lien
holders.

(3) Except where it is otherwise provided by this Act, no person entitled to a lien on any property, or money, shall be entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lien holders shall rank *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights. R.S.O. 1897, c. 153, s. 13.

WAGES.

Priority of
lien for wages.

15.—(1) Every mechanic or labourer whose lien is for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent. or fifteen per cent., as the case may be, directed to be retained by section 12, to which the contractor or sub-contractor through whom such lien is derived is entitled, and all such mechanics and labourers shall rank thereon *pari passu*.

Enforcing
lien in such
cases.

(2) Every wage-earner shall be entitled to enforce a lien in respect of a contract not completely fulfilled.

Calculating
percentage
when contract
not fulfilled.

(3) If the contract has not been completed when the lien is claimed by a wage-earner, the percentage shall be calculated on the value of the work done or materials furnished by the contractor or sub-contractor by whom such wage-earner is employed, having regard to the contract price, if any.

Percentage
not to be
otherwise
applied.

(4) Where the contractor or sub-contractor makes default in completing his contract the percentage shall not, as against a wage-earner claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose, nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim against the contractor or sub-contractor.

Devices to
defeat prior-
ity of wage
earners.

Payments
made for pur-
pose of de-
feating claim
for lien.

(5) Every device by an owner, contractor or sub-contractor to defeat the priority given to a wage-earner for his wages, and every payment made for the purpose of defeating or impairing a lien shall be null and void. R.S.O. 1897, c. 153, ss. 14 and 15.

MATERIAL.

Restraining
attempt to
remove mater-
ial affected
by lien.

16.—(1) During the continuance of a lien no part of the material affected thereby shall be removed to the prejudice of the lien. R.S.O. 1897, c. 153, s. 16.

(2) Material actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 5 shall be subject to a lien in favour of the person furnishing it until placed in the building, erection or work, and shall not be subject to execution or other process to enforce any debt other than for the purchase thereof, due by the person furnishing the same. *New.*

Material furnished for certain purposes not to be subject to execution.

61 V. c. 29, s. 13 (3) Man.

REGISTRATION OF LIEN.

17.—(1) A claim for a lien, Forms 1, 2 and 3, may be registered in the registry office of the registry division, or where the land is registered under *The Land Titles Act* in the Land Titles Office, of the locality in which the land is situate, and shall set out:—

Registration of claim for lien.

Rev. Stat. c. 138.

- (a) The name and residence of the person claiming the lien and of the owner, or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work or service was or is to be done, or materials furnished or placed, and the time within which the same was or was to be done or furnished or placed;
- (b) A short description of the work or service done or to be done, or materials furnished or placed or to be furnished or placed;
- (c) The sum claimed as due or to become due;
- (d) A description of the land sufficient for the purpose of registration and, where the land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which such land is registered in the Land Titles Office;
- (e) The date of expiry of the period of credit when credit has been given.

Contents of claim of lien.

Rev. Stat. c. 138.

(2) The claim shall be verified by the affidavit, Form 4, of the person claiming the lien or of his agent or assignee having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Form of affidavit.

(3) When it is desired to register a claim for lien against a railway, it shall be a sufficient description of the land of the railway company to describe it as the land of the railway

Description of lands where lien registered against railway.

company

company and every such claim shall be registered in the general registry in the registry office for the registry division within which such lien is claimed to have arisen. R.S.O. 1897, c. 153, s. 17.

What may be included in claim.

18. A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 17. R.S.O. 1897, c. 153, s. 18.

Claims not to be invalidated for informality.

19.—(1) A substantial compliance with sections 17 and 18 shall be sufficient, and no lien shall be invalidated by reason of failure to comply with any of the requisites of those sections unless, in the opinion of the court, judge or officer who tries an action under this Act, the owner, contractor or sub-contractor, mortgagee or other person, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section shall dispense with registration of the claim for lien. R.S.O. 1897, c. 153, s. 19.

Lien to be registered an incumbrance.

20.—(1) The Registrar, upon payment of the proper fee, shall register the claim, describing it as "Mechanics' Lien" against the land therein described in like manner as if it were a mortgage, but he shall not copy the claim or affidavit in any registry book.

Fee for registration.

(2) The fee for registration of a claim for lien shall be twenty-five cents, and if several persons join in one claim the registrar shall be entitled to a further fee of ten cents for each person after the first. R.S.O. 1897, c. 153, s. 20.

Lienholder to be deemed a purchaser.
10 Edw. VII.,
c. 60; Rev.
Stat., c. 138.

21. Where a claim is so registered, the person entitled to the lien shall be deemed a purchaser *pro tanto* and within the provisions of *The Registry Act* and *The Land Titles Act*, but except as herein otherwise provided those Acts shall not apply to any lien arising under this Act. R.S.O. 1897, c. 153, s. 21.

Claims for liens when to be registered.

22.—(1) A claim for lien by a contractor or sub-contractor, in cases not otherwise provided for, may be registered before or during the performance of the contract or within thirty days after the completion or abandonment thereof.

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof or within thirty days after the furnishing or placing of the last material so furnished or placed.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within thirty days after the last work is done for which the lien is claimed. R.S.O. 1897, c. 153, s. 22.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the claim for lien by a contractor may be registered within the time mentioned in subsection 1, or within seven days after the architect, engineer or other person has given, or has, upon application to him by the contractor, refused to give a final certificate. 2 Edw. VII., c. 21, s. 1.

Registration of contractors' lien after last certificate.

EXPIRY AND DISCHARGE OF LIEN.

23. Every lien for which a claim is not registered shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime an action is commenced to realize the claim, or in which the claim may be realized under the provisions of this Act, and a certificate thereof is registered in the registry office in which the claim for lien might have been registered. R.S.O. 1897, c. 153, s. 23.

Liens to cease if proceedings not had within time fixed by Act.

24.—(1) Every lien for which a claim has been registered shall absolutely cease to exist on the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or after the expiry of the period of credit, where such period is mentioned in the claim for lien registered, or in the cases provided for by subsection 5 of section 22 on the expiration of thirty days from the registration of the claim, unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under the provisions of this Act, and a certificate is registered as provided by the next preceding section.

When lien to cease if registered and not proceeded upon.

(2) Where the period of credit mentioned in the claim for lien registered has not expired it shall nevertheless cease to have any effect on the expiration of six months from the registration or any re-registration thereof, if the claim is not again registered within that period, unless in the meantime an action is commenced and a certificate thereof has been registered as provided by subsection 1. R.S.O. 1897, c. 153, s. 24.

Lien to expire at end of six months unless renewed.

When lien to
cease if there
is no period
of credit.

25. If there is no period of credit, or if the date of the expiry of the period of credit is not stated in the claim so registered, the lien shall cease to exist upon the expiration of ninety days after the work or service has been completed or materials furnished or placed, unless in the meantime an action is commenced and a certificate thereof registered as provided by section 23. R.S.O. 1897, c. 153, s. 25.

Assignment or
death of lien-
holder.

26. The right of a lien holder may be assigned by an instrument in writing and, if not assigned, upon his death shall pass to his personal representative. R.S.O. 1897, c. 153, s. 26.

Discharge of
lien.

27.—(1) A lien may be discharged by a receipt signed by the claimant, or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and registered.

(2) The receipt shall be numbered and entered like other instruments, but shall not be copied in any registry book, and there shall be entered against the entry of the lien to which the discharge relates the word "discharged" and the registration number of such discharge.

(3) The fee shall be the same as for registering a claim. R.S.O. 1897, c. 153, s. 27 (1).

Security or
payment into
court and
vacating lien
thereon.

(4) Upon application the court, judge or officer having jurisdiction to try an action to realize a lien, may allow security for or payment into court of the amount of the claim, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered. R.S.O. 1897, c. 153, s. 27 (2) (3); 62 V. (1), c. 2, s. 1.

When notice
of application
to vacate not
requisite.

(5) Where the certificate required by sections 23 or 24 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate required by sections 23, 24 or 25, the order vacating the lien may be made *ex parte* upon production of the certificate of the proper Registrar certifying the facts entitling the applicant to such order. R.S.O. 1897, c. 153, s. 27 (4).

EFFECT OF TAKING SECURITY OR EXTENDING TIME.

Certain acts
not to preju-
dice right to
enforce lien.

28.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any pro-

ceedings for the recovery or the recovery of a personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy the lien unless the claimant agrees in writing that it shall have that effect. R.S.O. 1897, c. 153, s. 28 (1).

(2) Where any such promissory note or bill of exchange has been negotiated the lien holder shall not thereby lose his lien if, at the time of bringing his action to enforce it, or, where an action is brought by another lien holder he is, at the time of proving his claim in such action, the holder of such promissory note or bill of exchange. *New.*

(3) Nothing in subsection 2 shall extend the time limited by this Act for bringing the action to enforce the lien. *New.*

(4) A person who has extended the time for payment of a claim for which he has a lien to obtain the benefit of this section shall commence an action to enforce such lien within the time prescribed by this Act, and shall register a certificate as required by sections 23, 24 or 25, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1897, c. 153, s. 28 (1-2).

29. Where the period of credit in respect of a claim has not expired, or where there has been an extension of time for payment of the claim, the lien holder may nevertheless, if an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such action as if the period of credit or the extended time had expired. R.S.O. 1897, c. 153, s. 28 (3).

INFORMATION TO BE GIVEN LIEN HOLDER.

30.—(1) Any lien holder may at any time demand of the owner or his agent the terms of the contract or agreement with the contractor for and in respect of which the work, service or material is or is to be performed or furnished or placed, and if such owner or his agent does not, at the time of such demand, or within a reasonable time thereafter, inform the person making such demand of the terms of such contract or agreement, and the amount due and unpaid upon such contract or agreement, or if he knowingly falsely states the terms of the contract or agreement, or the amount due or unpaid thereon, and if the person claiming the lien sustains loss by reason of such refusal or neglect or false statement, the owner shall be liable to him in an action therefor for the amount of such loss. R.S.O. 1897, c. 153, s. 29.

(2) The court, judge, or officer having jurisdiction to try an action to realize a lien may, on a summary application at any

any time before or after an action is commenced for the enforcement of such lien, make an order requiring the owner or his agent to produce and allow any lien holder to inspect any such contract or agreement upon such terms as to costs as he may deem just. R.S.O. 1897, c. 153, s. 30.

ACTION TO REALIZE CLAIM.

Mode of realizing lien.

31.—(1) A lien may be realized by action in the High Court, according to the ordinary procedure of that court, excepting where the same is varied by this Act.

(2) Without issuing a writ of summons, an action shall be commenced by filing in the proper office a statement of claim, verified by affidavit, Form 5.

(3) The statement of claim shall be served within one month after it is filed, but a judge or officer having jurisdiction to try the action may extend the time for service thereof, and the time for delivering the statement of defence shall be the same as for entering an appearance in an action in the High Court.

(4) It shall not be necessary to make any lien holders parties defendant to the action, but all lien holders served with the notice of trial shall for all purposes be deemed parties to the action. R.S.O. 1897, c. 153, s. 31.

Lien holders joining in action.

32. Any number of lien holders, claiming liens on the same land, may join in an action, and an action brought by a lien holder shall be taken to be brought on behalf of the other lien holders. R.S.O. 1897, c. 153, s. 32.

Who may try action to enforce lien.

33. The action may be tried before the Master in Ordinary, a local master of the High Court, an official referee, or a judge of the County or District Court, in any county or district in which the land is situate, or before a judge of the High Court. R.S.O. 1897, c. 153, s. 33.

Powers of certain officers.

34. The Master in Ordinary, the Local Masters, Official Referees, and the Judges of the County and District Courts, in addition to their ordinary powers, shall have all the jurisdiction, powers and authority of the High Court to try and completely dispose of the action and all questions arising therein. R.S.O. 1897, c. 153, s. 34.

Consolidation of actions.

35. Where more actions than one are brought to realize liens in respect of the same land, a judge or officer having jurisdiction to try such actions may, on the application of any party to any one of them, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff as he may see fit. R.S.O. 1897, c. 153, s. 37.

36. Any lien holder entitled to the benefit of an action may apply for the carriage of the proceedings, and the judge or officer may make an order giving such lien holder the carriage of the proceedings. Transferring carriage of proceedings. R.S.O. 1897, c. 153, s. 38.

37.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, where it is desired to try the action otherwise than before a judge of the High Court, either party may apply to a judge or officer who has jurisdiction to try the action, to fix a day for the trial thereof, and the judge or officer shall appoint the day and place of trial. Appointing day for trial.

(2) The party obtaining an appointment for the trial shall at least eight clear days before the day appointed, serve notice of trial, Form 6, upon the solicitors for the defendants who appear by solicitors, and upon defendants who appear in person and on all lien holders who have registered their claims as required by this Act, or who are known to him, and on all other persons having any charge, incumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal, unless otherwise directed by the judge or officer, who may direct in what manner the notice of trial may be served. Notice of trial and service of. R.S.O. 1897, c. 153, s. 36.

(3) The judge or officer shall try the action and all questions which arise therein or which are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom the notice of trial has been served, and shall take all accounts, make all enquiries, give all directions, and do all other things necessary to finally dispose of the action and of all matters, questions, and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial, and shall embody the results in a judgment, Form 7. Trial.

(4) The judge or officer may order that the estate or interest on which the lien attaches be sold, and where, by the judgment, a sale is directed he may direct the sale to take place at any time after the judgment, allowing a reasonable time for advertising such sale. Estate may be sold.

(5) The judge or officer may also direct the sale of any materials and authorize the removal thereof. Sale of materials.

(6) A lien holder who has not proved his claim at the trial, on application to the judge or officer before whom the Letting in lien-holders who have not

proved their
claims at
trial.

action was tried, may be let in to prove his claim on such terms as to costs and otherwise as may be deemed just at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where such a claim is allowed the judgment shall be amended so as to include such claim.

Right of lien
holders to
attend at
trial.

(7) Every lien holder for an amount not exceeding \$100 may be represented by a solicitor or by an agent who is not a solicitor.

Report where
sale is had.

38. Where a sale is had, the judge or officer with whose approbation the sale takes place shall make a report thereon and therein direct to whom the money realized shall be paid, and may add to the claim of the person conducting the sale his actual disbursements in connection therewith, and where enough to satisfy the judgment and costs is not realized he shall certify the amount of the deficiency and the names of the persons, with their amounts, who are entitled to recover the same, and the persons by the judgment adjudged to pay the same, and the persons entitled may enforce payment by execution or otherwise as on a judgment. R.S.O. 1897, c. 153, s. 35.

Lien holders
whose claims
are not pay-
able to share
in proceeds.
Kelly &
Tourist.
14 O.W.R.

39. Where property subject to a lien is sold in an action to enforce a lien, every lien holder shall be entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. *New.*

NEW TRIAL AND APPEAL.

Where judg-
ment of court
of first in-
stance to be
final.

40.—(1) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is not more than \$100, the judgment shall be final and without appeal, but the judge or officer who tried the action may, upon application within fourteen days after judgment is pronounced, grant a new trial.

Where appeal
to Divisional
Court final.

(2) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is more than \$100 and not more than \$500, any person affected by the judgment may appeal therefrom to a Divisional Court of the High Court, whose judgment shall be final and without appeal.

Appeal in
other cases.

(3) In all other cases an appeal shall lie and may be had in like manner and to the same extent as from the decision of

a judge

a judge trying an action in the High Court without a jury.
R.S.O. 1897, c. 153, s. 39.

FEES AND COSTS.

41.—(1) No fees in stamps or money shall be payable to any officer, nor on any filing, order, record, judgment, or other proceeding, excepting that every person other than a wage-earner shall, on filing his statement of claim where he is a plaintiff, or on filing his claim where he is not a plaintiff, pay in stamps one dollar on every one hundred dollars or fraction of one hundred dollars of the amount of his claim up to one thousand dollars. R.S.O. 1897, c. 153, s. 40.

Limit of fees in money or stamps.

(2) When the proceedings are taken before a local master who is paid by fees, such amount shall be payable to him in cash instead of in stamps. 1 Edw. VII., c. 12, s. 13.

42. The costs of the action, exclusive of actual disbursements, awarded to the plaintiffs and successful lien holders, shall not exceed in the aggregate twenty-five per cent. of the total amount awarded to them by the judgment, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct. R.S.O. 1897, c. 153, s. 41.

Limit of costs to plaintiff.

43. Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed twenty-five per cent. of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer may direct. R.S.O. 1897, c. 153, s. 42.

Limit of costs to be awarded against plaintiffs.

44. Where the least expensive course is not taken by a plaintiff the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1897, c. 153, s. 43.

Costs where least expensive course not taken.

45. Where a lien is discharged or vacated under section 27 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof. R.S.O. 1897, c. 153, s. 44.

Costs of drawing and registering and vacating registration of lien.

46. The costs of and incidental to all applications and orders not otherwise provided for shall be in the discretion of the judge or officer. R.S.O. 1897, c. 153, s. 45.

Costs not otherwise provided for.

PAYMENT OUT OF COURT.

Payments out
of court.

47.—(1) Except in actions tried by a judge of the High Court, the judge or officer who tries the action, where money has been paid into court and the time for payment out has arrived, shall forward a requisition for cheques with a certified copy of his judgment and of the report on sale, if any, to the Accountant of the Supreme Court, who shall, upon receiving the same, make out and return to the judge or officer cheques for the amounts payable to the persons mentioned in the requisition, and the judge or officer, on receipt of cheques, shall distribute them to the persons entitled.

Fees not to
be payable on
payments out
of court.

(2) No fees or stamps shall be payable on any cheques or on proceedings to pay money into court or to obtain money out of court, in respect of a claim for lien, but sufficient postage stamps to prepay a return registered letter shall be enclosed with every requisition for cheques. R.S.O. 1897, c. 153, s. 46.

JUDGMENTS IN ACTIONS.

Form of
judgment in
favour of
lien holders.

48. All judgments in favour of lien holders shall adjudge that the party personally liable for the amount of the judgment shall pay so much of any deficiency which may remain after sale of the property directed to be sold, as might have been recovered in an ordinary action against him, and where on the sale enough to satisfy the judgment and costs is not realized, such part of the deficiency may be recovered by execution against the property of such party. R.S.O. 1897, c. 153, s. 47.

Personal judgment when
claim for lien
fails.

49. Where a claimant fails to establish a valid lien he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1897, c. 153, s. 48.

LIENS ON CHATTELS.

Mechanics
entitled to
lien on a
chattel may
sell the chattel if (after
three months)
payment is
not made.

50.—(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists, but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have

have the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in such municipality, then in a newspaper published nearest thereto, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of such municipality.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale, and shall, upon application, pay over any surplus to the person entitled thereto. R.S.O. 1897, c. 153, s. 51. Application of
proceeds of
sale.

51. Chapter 153 of the Revised Statutes, 1897, and all amendments thereto are repealed. Repeal.

FORM 1.

Claim for Lien.

A. B. (name of claimant) of (here state residence of claimant), (if claimant is a personal representative or assignee set out the facts) under *The Mechanics and Wage-Earners Lien Act* claims a lien upon the estate of (here state the name and residence of owner of the land upon which the lien is claimed), in the undermentioned land in respect of the following work [or service or materials] that is to say (here give a short description of the nature of the work done or to be done, or materials furnished or to be furnished, and for which the lien is claimed.) which work [or service] was [or is to be] done [or materials were or are to be furnished] for (here state the name and residence of the person upon whose request the work is done or to be done, or the materials furnished or to be furnished) on or before the day of 19

The amount claimed as due [or to become due] is \$

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Where credit has been given, insert: The work was done [or materials were furnished] on credit, and the period of credit agreed to expired [or will expire] on the day of 19 .

Dated at this day of 19 .
(Signature of claimant.)

FORM 2.

Claim for Lien for Wages.

A. B. (name of claimant) of (here state residence of claimant), (if claimant is a personal representative or assignee set out the facts) under *The Mechanics and Wage-Earners Lien Act* claims a lien upon the estate of (here state the name and residence of owner of

of the land upon which the lien is claimed), in the undermentioned land in respect of work performed (or to be performed) thereon while in the employment of (here state the name and residence of the person upon whose request the work was or is to be performed) on or before the day of 19 .

The amount claimed as due [or to become due] is \$

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at this day of 19 .
(Signature of claimant.)

FORM 3.

Claim for Lien for Wages by Several Claimants.

The following persons claim a lien under *The Mechanics and Wage-Earners Lien Act* upon the estate of (*here state the name and residence of the owner of land upon which the lien is claimed*) in the undermentioned land in respect of wages for labour performed (or to be performed) thereon while in the employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien*).

A.B. of (residence) \$ for wages.

C.D. " \$ "

E.F. " \$ "

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at this day of 19 .
(Signatures of the several claimants.)

FORM 4

Affidavit Verifying Claim.

I, A.B., named in the above (or annexed) claim, make oath that the said claim is true.

Or, We A.B., and C.D., named in the above (or annexed) claim, make oath, and each for himself makes oath that the said claim, so far as relates to him, is true.

[Where affidavit is made by agent or assignee a clause must be added to the following effect:—I have full knowledge of the facts set forth in the above (or annexed) claim.]

Sworn before me at , in the
county of , this
day of 19 .

Or, The said A.B. and C.D. were severally
sworn before me at , in the county
of , this day of ,
19 .

Or, The said A.B. was sworn before me
at , in the county of
this day of 19 .

FORM 5.

*Affidavit Verifying Claim on commencing an Action.**(Style of Court and Cause.)*

I, _____, make oath and say, that I have read (or heard read), the foregoing statement of claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all the sums of money or goods or merchandise to which (naming the debtor) is entitled to credit as against me.

Sworn before me, etc.

FORM 6.

*Notice of Trial.**(Style of Court and Cause.)*

Take notice that this action will be tried at the _____, in the _____ of _____, in the County (or District) of _____, on the _____ day of _____ by _____ and at such time and place the _____ will proceed to try the action and all questions which arise in or which are necessary to be tried completely to dispose of the action and to adjust the rights and liability of the persons appearing before him, or upon whom this notice of trial has been served, and at such trial he will take all accounts, make all enquiries and give all directions and do all things necessary to try and otherwise finally dispose of this action, and of all matters, questions, and accounts arising therein and will give necessary relief to all parties.

And further take notice that if you do not appear at the trial and prove your claim, if any, (or your defence, if any) to the action the proceedings will be taken in your absence and you may be deprived of all benefit of the proceedings and your rights disposed of in your absence.

This is a Mechanics Lien action brought by the above named plaintiff against the above named defendants to enforce a Mechanics Lien against the following lands:—(set out description of lands).

This notice is served by, etc.

Dated _____ 19 .

To _____

FORM 7.

Judgment.

In the High Court of Justice.

Monday, the _____ day of _____ 19 .
Name of Judge or officer: _____

William Spencer, Plaintiff,

and

Thomas Burns, Defendant.

This action coming on for trial before _____ at _____ upon opening of the matter and it appearing that the following persons have been duly served with notice of trial herein, (set out names of all persons served with notice of trial) and all such per-

sons (*or as the case may be*) appearing at the trial [*or and the following persons not having appeared set out names of non-appearing persons*] and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for *C.D.* and *E.F.* and the defendant [*or and by A.B. appearing in person.*]

1. This Court doth declare that the plaintiff and the several persons mentioned in the first schedule hereto are respectively entitled to a lien under *The Mechanics and Wage Earners Lien Act*, upon the land described in the second schedule hereto, for the amounts set opposite their respective names in the 2nd, 3rd and 4th columns of the said 1st schedule, and the persons primarily liable for the said claims respectively are set forth in the 5th column of the said schedule.

2. [And this Court doth further declare that the several persons mentioned in schedule 3 hereto are also entitled to some lien, charge or incumbrance upon the said land for the amounts set opposite their respective names in the 4th column of the said schedule 3, *according to the fact.*]

3. And this Court doth further order and adjudge that upon the defendant (*A.B.* the owner) paying into court to the credit of this action the sum of _____ (*gross amount of liens in schedules 1 and 3 for which owner is liable*) on or before the _____ day of _____ next, that the said liens in the said 1st schedule mentioned be and the same are hereby discharged, [and the several persons in the said 3rd schedule are to release and discharge their said claims and assign and convey the said premises to the defendant (*owner*) and deliver up all documents on oath to the said defendant (*owner*) or to whom he may appoint] and the said money so paid into court is to be paid out in payment of the claims of the said lien holders (*or and incumbrancers*).

4. In case the said defendant (*owner*) shall make default in payment of the said money into court, this Court doth order and adjudge that the said land be sold with the approbation of the Master of this Court at _____ and that the purchase money be paid into court to the credit of this action and that all proper parties do join in the conveyances as the said Master shall direct.

5. And this Court doth order and adjudge that the said purchase money be applied in or towards payment of the several claims in the said 1st [and 3rd] schedule[s] mentioned as the said Master shall direct, with subsequent interest and subsequent costs to be computed and taxed by the said Master.

6. And this Court doth further order and adjudge that in case the said purchase money shall be insufficient to pay in full the claims of the several persons mentioned in the said 1st schedule, the persons primarily liable for such claims as shewn in the said 1st schedule do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same shall have been ascertained by the said Master.

7. [And this Court doth declare that _____ have not proved any lien under *The Mechanics and Wage Earners Lien Act*, and that they are not entitled to any such lien, and this Court doth order and adjudge that the claims of liens registered by them against the land mentioned in the said 2nd schedule be and the same are hereby discharged, *according to the fact.*]

SCHEDULE 1.

Names of lien holders entitled to mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.	Names of primary debtors.

(Signature of officer.)

SCHEDULE 2.

The lands in question in this matter are

(Set out by a description sufficient for registration purposes.)

(Signature of officer.)

SCHEDULE 3.

Names of persons entitled to incumbrances other than mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.

(Signature of officer.)

CHAPTER 70.

The Woodman's Lien for Wages Act.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.
 TERRITORY TO WHICH ACT APPLIES,
 s. 2.
 INTERPRETATION, s. 3.
 PROCEEDINGS IN PROVISIONAL
 COUNTY OF HALIBURTON, s. 4.
 AGREEMENTS WAIVING RIGHTS
 UNDER ACT VOID, s. 5.
 WHO ENTITLED TO LIEN, s. 6.
 LIEN TO CEASE UNLESS PROCEED-
 INGS TAKEN, s. 7.
 STATEMENT OF LIEN TO BE FILED,
 ss. 8, 9.
 SALE NOT TO AFFECT LIEN, s. 10.
 ENFORCEMENT OF LIEN:
 Action and attachment, ss. 11-
 19.
 Transit within district not to
 be prevented, s. 20.
 Separation of logs, s. 21.
 Restoration of logs upon se-
 curity, s. 22.
 Notice of dispute, s. 23.

Payment into court, s. 24.
 Advertisement for claims, s.
 25.
 Adjudication upon, ss. 26, 27.
 Discharge of lien if nothing
 done, s. 28.
 Costs, s. 29.
 Distribution of surplus, s. 30.
 Where action not prosecuted,
 s. 31.
 Other remedies not affected,
 s. 32.
 Lien holders may join, s. 33.
 Transfer of proceedings to Dis-
 trict Court, s. 34.
 Where actions commenced in
 several courts, s. 35.
 Practice, s. 36.
 MALICIOUS PROCEEDINGS, s. 37.
 WAGES, HOW TO BE PAID, ss. 38,
 39.
 FORMS OF PROCEEDINGS, s. 40.
 REPEAL, s. 41.

HIS MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

Short title.

1. This Act may be cited as "*The Woodman's Lien for Wages Act.*" R.S.O. 1897, c. 154, s. 1.

Application of
Act.

2. This Act shall apply only to the Provisional County of Haliburton and to the Provisional Judicial Districts. R.S.O. 1897, c. 154, s. 3; 9 Edw. VII. c. 26, s. 7, (2).

Interpreta-
tion.

3. In this Act,

"Bailliff."

(a) "Bailliff" shall include a constable who under *The Division Courts Act* may execute an attachment or perform other service. R.S.O. 1897, c. 154, s. 2 (2-4).

(b)

(b) "Labour" shall mean and include cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

(c) "Logs or timber" shall mean and include logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves or any of them. R.S.O. 1897, c. 154, s. 2 (1); 61 V. c. 17, s. 1; 9 Edw. VII. c. 26, s. 7 (1).

4. Wherever in this Act any act is required to be done by, or any paper to be filed or proceedings taken in the office of the Clerk of the District Court of a District or jurisdiction is conferred upon a District Court or the Judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the Clerk of the County Court of the County of Victoria, and the like jurisdiction may be exercised by that court or a Judge thereof in respect of matters arising in the Provisional County of Haliburton. *Proceedings in Provisional County of Haliburton.*
See R.S.O. 1897, c. 154, s. 6 (7).

5.—(1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person shall be null and void. *Contracts waiving application of Act to be void.*

(2) This section shall not apply to any manager, officer or foreman, or to any person whose wages are more than \$3 a day. R.S.O. 1897, c. 154, s. 4.

6.—(1) A person performing labour shall have a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the same shall have precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or which a timber slide company or an owner of a slide or boom may have thereon for tolls. R.S.O. 1897, c. 154, s. 5 (1). *Lien for labour on logs or timber.*

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the *Contractors, with respect to labour or services to be performed on timber got out for export.*

the performance of labour, within the meaning of this section. R.S.O. 1897, c. 154, s. 5 (2); 3 Edw. VII. c. 7, s. 61.

Lien to cease unless proceedings taken.

7. The lien shall cease unless the claim therefor is filed and proceedings are taken to enforce the same as hereinafter provided. R.S.O. 1897, c. 154, s. 6 (1).

Claim of lien to be filed.

8.—(1) The person claiming the lien shall state his claim in writing, Form I, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

Verified by affidavit.

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent. R.S.O. 1897, c. 154, ss. 6 (1) and 7.

Time for filing claim.

(3) In the case of a contractor coming within the provisions of subsection 2 of section 6 the claim and affidavit shall be filed on or before the first day of September next following the performing of the labour.

(4) In other cases, if the labour was performed between the first day of October and the 1st day of April next thereafter the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed. R.S.O. 1897, c. 154, s. 8 (1 and 2).

Place for filing claim.

9.—(1) Except as hereinafter provided the claim and affidavit shall be filed in the office of the District Court of the Provisional Judicial District in which the labour or some part thereof was performed.

(2) Where the labour was performed upon logs or timber got out to be run down or which have been run down any of the rivers or streams flowing into the Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake or Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the Clerk of the District Court of the district in which the labour was performed or in the office of the Clerk of the District Court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the Provisional County of Haliburton the claim may be filed in the office of the Clerk of the County Court of the County of Victoria. R.S.O. 1897, c. 154, s. 6 (2 and 3).

10. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall affect the lien but the same shall remain in force against such logs and timber in whosoever possession the same shall be found. R.S.O. 1897, c. 154, s. 9. Sale not to affect lien.

11.—(1) Any person having a lien upon logs or timber may enforce the same by suit, where the claim does not exceed \$200, in the Division Court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or where the claim exceeds \$200, in the proper District Court where the claim is filed, and such suit may be commenced to enforce such lien, if the claim is then payable, immediately after the filing of the claim, or if credit has been given immediately after the expiry of the period of credit, and such lien shall cease unless the proceedings to enforce the same are commenced within 30 days after the filing of the claim, or after the expiry of the period of credit. Enforcement of liens by suit in District or Division Courts.

(2) In all such suits the person liable for the payment of the claim shall be made the party defendant. R.S.O. 1897, c. 154, s. 10.

(3) Where the defendant is not the owner of the logs a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession, custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose.

(4) The owner may on his own application, or by direction of the Judge, be made a party defendant.

12.—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed and no statement of claim shall be necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit or proceeding in a Division Court shall be necessary whether the suit is brought in a District or in a Division Court. Procedure.

(2) Where no dispute or defence is filed, judgment may be signed and execution issued.

(3) The Court or Judge may order particulars to be given or amendments to be made, or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed, on such terms as may appear just.

(4)

(4) The writ or summons shall be in the form as nearly as may be of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the Division Court.

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

(6) The judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1897, c. 154, s. 11.

Procedure
subsequent to
execution in
certain cases.

13. Where an execution has been placed in the hands of a sheriff or bailiff for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1897, c. 154, s. 12.

Procedure
where attach-
ment issues.

14.—(1) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

(2) Where an attachment issues after proceedings have been commenced by writ or summons the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1897, c. 154, s. 13.

Form of
attachment.

15. The forms of attachment shall be as nearly as may be the same as are in use in the District Courts or in the Division Courts. R.S.O. 1897, c. 154, s. 14 (*part*).

Summary dis-
posal of cases.

16.—(1) Whether the proceedings are commenced by writ or summons or attachment, the Judge may direct that the same shall be disposed of summarily by him without waiting for the regular sittings of the Court, upon such terms as to notice and otherwise as he may deem proper, and the same may be so disposed of.

(2) The Judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he may deem proper. R.S.O. 1897, c. 154, s. 15.

When attach-
ment to issue
from Division
Court.

17. Where the amount of the claim does not exceed \$200, and is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim, and showing that the same has been filed and stating that

- (a) He has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario, or
- (b) That the person indebted has absconded from Ontario, with intent to defraud or defeat his creditors, or
- (c) That the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified, and
- (d) That he is in danger of losing his claim, if attachment does not issue,

and if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clauses (a), (b) or (c), are also filed, the Clerk of the proper Division Court shall issue a warrant as, in the case of an attachment under section 200 of *The Division Courts Act*, directed to the bailiff of the Division Court commanding such bailiff to attach, seize, take and safely keep such logs or timber, or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the same issued. R.S.O. 1897, c. 154, s. 16: :0 Edw. VII.,
c. 32.

18.—(1) Where the amount claimed exceeds \$200, upon the filing of a copy of the claim and affidavit, the Clerk of the District Court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under the next preceding section and such affidavits in corroboration as is provided in the next preceding section shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien. When attachment to issue out of District Court.

(2) Where additional claims are made, or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1897, c. 154, s. 17.

19.—(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the District Court or Division Court out of which the warrant or writ to be served on defendant and the owner of logs.

which

which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant is not the owner of the logs or timber described in the warrant or writ a copy of the warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

(2) When a warrant or writ is served upon a person in possession an order of the Judge allowing the service shall be necessary.

Services where no one in possession of logs.

(3) Where the defendant or the owner of the logs or timber cannot be found within the district and there is no one in possession of the logs or timber a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any Division Court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

(4) The owner may on his own application or by direction of the Judge be made a party defendant.

When defendant or owner not in Province, etc.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained and no person is in possession of the logs or timber the warrant or writ may be served in such manner as the Judge directs.

Admission of parties to make defence.

(6) Notwithstanding that a defence has not been entered the Judge may admit the defendant and the owner or either of them to make full defence upon such terms as he may deem just. R.S.O. 1897, c. 154, s. 18.

Logs or timber in transit within district not to be detained.

20. A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted, the sheriff or bailiff may receive the logs

or

or timber from such person, and the statutory lien of such person shall not be released by the holding of such sheriff or bailiff. R.S.O. 1897, c. 154, s. 19.

21. The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the Judge, take any proceedings which the owner of any logs or timber may take under *The Saw Logs Driving Act* for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the Judge so directs. R.S.O. 1897, c. 154, s. 20.

Separation of logs.

Rev. Stat. c. 143.

22. In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1897, c. 154, s. 21.

Sheriff or Bailiff to restore possession upon execution of bond.

23.—(1) Any person who has been served with a copy of the warrant or writ of attachment, and who desires to dispute the claim shall within 14 days after such service enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

Persons served to enter notice of dispute.

(2) If no notice of dispute is entered judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1897, c. 154, s. 22.

If no notice of dispute entered judgment may be entered.

24.—(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and shall thereupon be entitled to a certificate vacating the liens.

Persons served with attachment may pay amount claimed into court.

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens shall be vacated and all further proceedings thereon shall cease, and the defendant shall be entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation

cancellation of any bond given under section 22. R.S.O. 1897, c. 154, s. 23.

Day to be fixed by advertise-ment for hearing parties in-terested, taking accounts, etc

25.—(1) After the expiration of the time within which a notice of dispute may be entered, the Judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber shall appear before him, for the adjustment of their claims and the settle-ment of accounts.

(2) The appointment shall be served upon the defendants and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a gen-eral circulation in the district in which proceedings are pending.

Appointment to be mailed to lien-holders.

(3) A copy of the appointment shall also be sent by regis-tered post to every claimant known to the plaintiff and to the Minister of Lands, Forests and Mines at least two weeks be-fore the day appointed, directed to the post office address of such claimant where the same is known, and if not known then to his last known address. R.S.O. 1897, c. 154, s. 24.

Parties filing notices of dis-putes or claims to attend on day named in appointment.

26.—(1) Upon the day named in the appointment the persons served with a copy thereof and all other persons claim-ing a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims, shall attend before the Judge.

Proof of claims.

(2) Where a claim is brought in pursuant to the notice it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases. R.S.O. 1897, c. 154, s. 25.

Judge to hear all parties. take accounts, necessary etc.

(3) The Judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs, and determine by whom the same shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1897, c. 154, s. 26.

Order to be made by Judge at conclusion of enquiry.

27.—(1) At the conclusion of the enquiry the Judge shall make his report and order, which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs, and in default of pay-ment that the logs or timber shall be sold by the sheriff or bailiff, for the satisfaction thereof. R.S.O. 1897, c. 154, s. 27.

(2) In default of payment into court within the time named in the order, the logs or timber shall within twenty days thereafter be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the Judge may direct.

In default of payment into court logs or timber to be sold.

(3) The amount realized by the sale shall, after deducting the expenses thereof, and the fees and poundage of the sheriff or bailiff, be paid into court, and shall be paid out by the clerk to the parties entitled thereto under the order of the Judge.

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the Judge shall apportion the amount realized *pro rata* among the claimants. R.S.O. 1897, c. 154, s. 28.

Judge to apportion.

(5) Where after sale and distribution any balance remains due to any person under the order of the Judge, the clerk shall, upon application of such person give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the District Court or Division Court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1897, c. 154, s. 29.

Certificate of balance due after distribution to be entered as a judgment.

28. Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the Judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs which may be found due to the defendant or the owner of the logs or timber. R.S.O. 1897, c. 154, s. 30.

Where nothing found due on enquiry, lien to be discharged.

29.—(1) Where the taxed costs, exclusive of necessary disbursements, which are payable out of the amount realized for the satisfaction of the lien exceed twenty-five per cent. of the amount realized, such costs, upon application by any party may be reduced by the Judge, so that the same shall not in the aggregate exceed twenty-five per cent. and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

Costs.

(2) The costs in addition to actual and necessary disbursements which may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and, where the amount claimed is within the jurisdiction of the Division Court, shall not exceed \$2 where a solicitor is employed.

(3) In case of a contest, where a solicitor is employed, the Judge may allow such costs not exceeding in any case \$10

when

when taxed on the District Court scale or \$5 when taxed on the Division Court scale in addition to actual and necessary disbursements, but where the claim does not exceed \$50 then such costs shall not exceed \$3.

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1897, c. 154, s. 31.

Disposition of
balance after
sale and satis-
faction of
liens.

9 Edw. VII,
c. 48.

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30.—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims which have been proved with interest and costs the Judge, upon the application of any creditor within thirty days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff, who shall hold and distribute the same as provided by *The Creditors' Relief Act* in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by *The Creditor's Relief Act* for proving claims and obtaining certificates or executions.

(2) If no such application is made to the Judge within such period of thirty days, the Judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1897, c. 154, s. 32.

Dismissal of
proceedings
for want of
prosecution.

31. Any person affected by proceedings taken under this Act may apply to the Judge to dismiss the same for want of prosecution, and the Judge may make such order upon the application as he may deem just. R.S.O. 1897, c. 154, s. 33.

Other
remedies not
affected.

32.—(1) Nothing in this Act shall deprive any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber.

(2) Where an action is brought to enforce a lien, but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. R.S.O. 1897, c. 154, s. 35.

Any number
of lien holders
may join in
proceedings.

33. Any number of lien holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 8 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. R.S.O. 1897, c. 154, s. 36.

34. Where proceedings have been commenced in the District Court, and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a Division Court, the Judge may order the proceedings in the Division Court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the Division Court, and thereafter all persons who have filed claims in the Division Court shall be entitled to prove their claims and to share in the benefit of the proceedings in the District Court. R.S.O. 1897, c. 154, s. 37.

Transfer of
suit from
Division
Court in case
proceedings
taken in
District
Court.

35. Where suits are brought in several District Courts or in several Division Courts, the procedure under sections 25 to 27 shall be had in the District or Division Court out of which an execution or attachment first issued, unless the Judge of such court shall otherwise order. R.S.O. 1897, c. 154, s. 38.

Where suits
in several
Courts.

36. The practice and procedure in actions brought in the District Courts or in Division Courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. R.S.O. 1897, c. 154, s. 39.

Practice.

37. Any person who unlawfully and maliciously, and without reasonable and probable cause, takes, or causes to be taken proceedings under this Act by which logs or timber are seized, detained or sold, shall be liable therefor in an action at the suit of any person aggrieved thereby, and shall also be liable for all loss and damage occasioned by such seizure, by reason of such logs or timber breaking away or being scattered or lost, or otherwise. R.S.O. 1897, c. 154, s. 40.

Liability for
loss occa-
sioned by
improper
seizure.

38.—(1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note, or other undertaking (other than a bank note or bill), drawn upon or payable at or within any place out of Ontario. R.S.O. 1897, c. 154, s. 41.

Illegal pay-
ments.

(2) Any person violating, or who shall direct or knowingly suffer his agent or servant to violate the provisions of this section shall incur a penalty of not less than \$5 and not more than \$20, to be recovered under the provisions of *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 154, s. 42.

Penalties.

39. No payment made or offered to be made in violation of section 38, shall be a defence to an action or proceeding for the recovery of wages, or be receivable in evidence therein, nor shall any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale, or transfer of any instrument mentioned

Illegal pay-
ments not to
be allowed as
a defence in
any action.

10 Edw. VII.,
c. 37.

mentioned in section 38, in whole or in part, by the payee, the consideration received by him shall be treated as payment on account. R.S.O. 1897, c. 154, s. 43.

Forms of
proceeding.

40. The Judges of the District Courts, or a majority of them, may prepare and adopt forms of writs, summonses, attachments and other forms for the more convenient carrying out of the provisions of this Act, and thereafter the same shall be used instead of the forms prescribed by this Act. R.S.O. 1897, c. 154, s. 14 (*part.*)

Repeal.

41. Chapter 154 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

CLAIM OF LIEN.

A. B., (*name of claimant*) of (*state residence of claimant*), (*if claim made as assignee then say as assignee of giving name and address of assignor*) under *The Woodman's Lien for Wages Act*, claims a lien upon certain logs or timber of (*here state the name and residence of the owner of logs or timber upon which the lien is claimed if known*) which logs and timber are composed of (*state the kinds of logs and timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim*) in respect of the following work, that is to say, (*here give a short description of the work done for which the lien is claimed*) which work was done for (*here state the name and residence of the person upon whose credit the work was done*) between the day of and the day of at per (*month or day as the case may be*).

The amount claimed as due (*or to become due*) is the sum of (*and when credit has been given, the said work was done on credit, and the period of credit will expire on the* day of).

Dated at this day of , 19 .

(*Signature of Claimant.*)

AFFIDAVIT TO BE ATTACHED TO CLAIM.

I make oath and say that I have read (*or have heard read*) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (*naming the debtor*) is entitled to credit.

Sworn before me at in the district }
of this day of , 19 . }

A Commissioner.

R.S.O. 1897, c. 154, Sched.

CHAPTER 71.

An Act to secure Payment of Wages for Labour performed in the Construction of Works.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.

PUBLIC WORKS:

Wages of employees on public works, s. 2.

List of employees to be furnished, ss. 3-5.

SUBSIDIZED WORKS:

Retaining portion of legislative grant, s. 6.

WORKS BY CHARTERED COMPANIES:

Companies to be liable for wages due by contractors, s. 7.

Notice of unpaid wages, and proceedings thereon, s. 8.

REPEAL, s. 9.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PUBLIC WORKS.

1. This Act may be cited as "*The Public and other Works Wages Act.*" Short title.

2. If any contractor with His Majesty, or any sub-contractor in the construction of any public work let under contract by His Majesty, makes default in the payment of the wages of any foreman, workman or labourer, employed on such work, or in the payment of any sum due by him for the labour of any such foreman, workman or labourer, or of any team employed on such work, and if a claim therefor is filed in the office of the Minister entering into such contract on behalf of His Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished, His Majesty may pay such claim to the extent of the amount of all moneys or securities in the hands of His Majesty for securing the performance of the contract at the time of the filing of the said claim. R.S.O. 1897, c. 155, s. 1; R.S.C. 1906, c. 98, s. 2.

Payment of wages of employees of contractors or sub-contractors out of securities held by Crown.

3. The Minister may, in writing, require any such contractor or sub-contractor to file in the office of the Minister, not later than the fifteenth day of each month, a list showing the names, rate of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman, labourer

List of employees, etc., to be furnished when required.

labourer or team employed by the contractor or sub-contractor during the previous month, and such list shall be attested upon the oath of the contractor or sub-contractor or his authorized agent. R.S.O. 1897, c. 155, s. 2.

Failure to
furnish list.

4.—(1) Every contractor or sub-contractor, who makes default in forwarding such list, shall incur a penalty not exceeding \$100 and not less than \$10 for every day during which default continues.

Penalty.

(2) The amount of such penalty, within the above limits, shall be determined by the Minister under whom the work is being executed, and may be deducted out of the moneys in the hands of the Crown deposited by or owing to such contractor and shall be vested in His Majesty. R.S.O. 1897, c. 155, s. 3.

When sub-
contractor
fails to
furnish list.

5. Where default is made by a sub-contractor in furnishing such list, the penalty for such default, hereinbefore provided, may also be recovered, with costs, at the suit of the Crown in any Court of competent jurisdiction. R.S.O. 1897, c. 155, s. 4.

SUBSIDIZED WORKS.

Retaining por-
tion of legis-
lative grant
and paying
wages, etc.,
thereout.

6.—(1) Where any subsidy, advance, loan or bonus of money is authorized by the Legislature to be granted to any company or person towards the construction of any railway or other work it shall, in the absence of special provision by the Legislature to the contrary, be a condition of the grant that so much of the money may be retained as the Lieutenant-Governor in Council may think proper to secure the payment of claims for wages of persons employed on such railway or work whether by such company or by any contractor or sub-contractor, or for sums due or to become due for labour of persons or teams so employed.

(2) If any such claim remains unpaid for thirty days after notice thereof has been served upon the Minister charged with the duty of seeing that the conditions upon which such aid is granted are duly carried out, the Lieutenant-Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained. R.S.O. 1897, c. 155, s. 5.

WORKS BY CHARTERED COMPANIES.

Companies
incorpor-
ated to
be liable for
wages due by
contractors,
etc.

7.—(1) Every company incorporated under any Act of the Legislature shall be liable for the payment of the wages of the foremen, workmen, labourers or teams employed in

the

the construction of any work in Ontario done by or for the company, whether directly under the company or through the intervention of any contractor or sub-contractor.

(2) Nothing herein shall prejudice or affect the right of any person against any contractor or sub-contractor with whom he has contracted under any other Act or law in force in Ontario. R.S.O. 1897, c. 155, s. 6.

8.—(1) Where any such foreman, workman or labourer is not paid his wages for himself or his team by any contractor or sub-contractor by whom he has been employed, a notice stating the name of the claimant and the amount of wages claimed, the rate of such wages, the nature and amount of work done, the time when, the place where, and the name of the contractor or sub-contractor, superintendent or foreman under whom such work was done, may be served upon the company not later than two months after such wages are earned. Notice of unpaid wages.

(2) The notice shall be followed up by the commencement of a suit in a court of competent jurisdiction for the collection of such wages, within thirty days after the service of such notice; otherwise the liability mentioned in the last preceding section shall cease. Suit.

(3) The notice mentioned in subsection 1, and any summons, notice, order or other process required to be served upon the company for the prosecution of such claim, may be served upon the president, vice-president, secretary, managing director, superintendent, or engineer, or any recognized officer representing the company, or by leaving it with any adult person at the office or residence of any of them. R.S.O. 1897, c. 155, s. 7; see R.S.C. 1906, c. 98, ss. 7 and 8. Service of notice or process.

9. Chapter 155 of the Revised Statutes, 1897, and all amendments thereto are repealed. Repeal.

CHAPTER 72.

An Act respecting Wages.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

PRIORITY IN ASSIGNMENTS FOR
BENEFIT OF CREDITORS, s. 3.PRIORITY OVER EXECUTION CREDI-
TORS, s. 4.

IN CASE OF ATTACHMENT, s. 5.

IN ADMINISTRATION CASES, s. 6.

WAGES OF MECHANICS NOT ATTACH-
ABLE, EXCEPT EXCESS OVER \$25,
s. 7.WHEN TO BE PAID OVER BY AS-
SIGNEE, ADMINISTRATOR, ETC.,
s. 8.Protection of assignee, s. 8 (3).
Joinder of claims, s. 8 (4).

REPEAL, s. 9.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

Short title. 1. This Act may be cited as "*The Wages Act.*"

Interpreta-
tion
"Wages."

2. In this Act "Wages" shall mean and include wages
and salary whether the employment in respect of which the
same is payable is by time or by the job or piece or otherwise.
R.S.O. 1897, c. 156, s. 1.

Wages or
salaries to
have priority
in assign-
ments for
benefit of
creditors.

3. Where an assignment is made for the general benefit
of creditors of any real or personal property the assignee
shall pay, in priority to the claims of the ordinary or general
creditors of the assignor, the wages of all persons in the em-
ployment of the assignor at the time of the making of the
assignment, or within one month before the making thereof,
not exceeding three months' wages, and such persons shall
rank as ordinary or general creditors for the residue, if any,
of their claims. R.S.O. 1897, c. 156, s. 2.

(As to wages in case of winding up a company see *The Ontario Companies Act*. 7 Edw. VII. c. 34, ss. 178 and 196.)

And over
execution
creditors.

4. All persons who, at the time of the seizure by the
sheriff, or who within one month previous thereto have been
in the employment of the execution debtor, and who shall
become entitled to share in the distribution of money levied

out

out of the property of a debtor within the meaning of *The Creditors' Relief Act*, shall be entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1897, c. 156, s. 4.

5. All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under *The Absconding Debtors Act*, or within one month previous thereto, shall be entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O., 1897, c. 156, s. 5.

6. In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month previous thereto, who is entitled to share in the distribution of the estate, shall be entitled to his wages not exceeding three months' thereof in priority to the claims of the ordinary or general creditors of the deceased, and such person shall be entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim. R.S.O. 1897, c. 156, s. 6.

7.—(1) No debt due or accruing due to a mechanic, workman, labourer, servant, clerk or employee, for or in respect of his wages, shall be liable to seizure or attachment, unless such debt exceeds the sum of \$25, and then only to the extent of such excess. R.S.O. 1897, c. 156, s. 7.

(2) Nothing in this section shall apply to any case where the debt has been contracted for board or lodging, and in the opinion of the judge before whom the matter is brought the exemption of \$25 is not necessary for the support and maintenance of the debtor's family, or where the debtor is an unmarried person, having no family depending on him for support, and the debt was contracted on or after the 23rd day of March, 1889. R.S.O. 1897, c. 60, s. 181.

8.—(1) Wages in respect of which priority is herein conferred shall become due and be payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time when the estate has been received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay the

9 Edw. VII.
c. 48.

And in case
of attach-
ment.

9 Edw. VII.
c. 49.

And in ad-
ministration
of estates.

Debts due to
mechanics,
etc., for
wages, not to
be attached,
except excess
over \$25.

Exception as
to debt for
board or
lodging.

When wages
to be payable
on distribu-
tion of estate
by assignee,
administra-
tor, etc.

the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

(2) Ordinary expenses shall not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

Proviso:—
protection of
assignee, etc.,
paying claims
for wages.

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it shall in the end appear that the estate was insufficient to have justified such payment, provided he has acted in good faith and has reasonable grounds to believe that the estate would prove sufficient.

Claimants
may join in
action for
wages.

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims. 62. V. (2); c. 17, s. 1.

(As to wages payable to employees of contractors for public works, see 10 Edw. VII., Cap. 71).

Repeal.

9. Chapter 156 of the Revised Statutes, 1897, and all amendments thereto are repealed.

CHAPTER 73.

An Act respecting Master and Servant.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.

LIMITATION OF VOLUNTARY CONTRACTS OF SERVICE, s. 2.

AGREEMENT FOR SHARE OF PROFITS OF BUSINESS, s. 3.

COMPLAINTS BY SERVANTS FOR NON-PAYMENT OF WAGES, s. 4.

PROCEEDINGS BEFORE POLICE MAGISTRATES, ss. 5-8.

SPECIAL PROCEEDINGS BEFORE CITY POLICE MAGISTRATE, s. 7.

SERVICE OF SUMMONS, s. 8.

APPEALS ss. 9-10.

AGREEMENTS WAIVING ACT VOID, s. 11.

REPEAL, s. 12.

COMMENCEMENT OF ACT, s. 13.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Master and Servant Act*." Short title.

LIMIT OF DURATION OF CONTRACT.

2. No voluntary contract of service or indenture entered into by any persons shall be binding on them, or either of them, for a longer time than a term of nine years from the date thereof. R.S.O. 1897, c. 157, s. 2. No voluntary contract of service or indentures to be binding longer than nine years.

PROFIT-SHARING AGREEMENT.

3.—(1) An agreement entered into by a workman, servant or employee and his master or employer under which a share of the profits of any trade, calling, business or employment is to be paid to the workman, servant or employee in lieu of or in addition to salary, wages or other remuneration unless the agreement otherwise provides or a contrary intention may be reasonably inferred therefrom shall not Agreement for share in profits of business.

(a) create any relation in the nature of a partnership or the rights or liabilities of partners, or

(b) give to the workman, servant or employee the right to examine into the accounts or interfere in the management or affairs of the trade, calling or business.

Employer's
statement of
profits to be
final.

(2) Any statement or return by the employer of the net profits of the trade, calling, business or employment on which he declares and appropriates the share of profits payable under such agreement shall be final and conclusive between the parties and all persons claiming under them, and shall not be impeachable upon any ground whatever, except fraud. R.S.O. 1897, c. 157, ss. 3 and 4.

PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

Complaints by
servants
for non-pay-
ment of
wages.

4.—(1) Upon the complaint upon oath of a servant or labourer against his master or employer concerning any non-payment of wages, a Justice of the Peace may summon the master or employer to appear before him at a reasonable time to be stated in the summons, and he or some other Justice, upon proof on oath of the personal service of the summons, or of its service as hereinafter authorized, shall examine into the matter of the complaint, whether or not the master or employer appears, and upon due proof of the cause of complaint, the Justice may discharge the servant or labourer from the service or employment of the master or employer, and may direct the payment to him of any wages found to be due, not exceeding the sum of \$40, and the Justice shall make such order as to him seems just and reasonable for the payment of such wages, with costs, and in case of the non-payment of the same together with the costs for the space of eight days after the order has been made, the Justice shall issue his warrant of distress for the levying of the wages, together with the costs of the order and of the distress. R.S.O. 1897, c. 157, s. 11.

Complaints
may be in
any county
or district.

(2) A complaint may be prosecuted and determined in any county or district in which the person complained against is found, or in any county or district in which the person complained against carries on business. R.S.O. 1897, c. 157, s. 10.

Proceedings
may be had
under this
Act within one
month after the
engagement or
employment has
ceased, or
within one month
after the last instalment
of wages under
the agreement of
hiring has become
due, whichever shall
last happen.

(3) Proceedings may be had under this Act within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever shall last happen.

Work done in
Ontario under
verbal
agreement
made out of
Ontario.

(4) Proceedings may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal or written agreement or bargain made out of Ontario. R.S.O. 1897, c. 157, s. 12.

When master
makes a claim
for unliquidated
damages.

(5) Where the master or employer claims a set-off or makes a claim for unliquidated damages the Justice of the Peace

Peace shall investigate the same and give judgment for the balance of wages, if any, due to the claimant, after deducting such set-off or claim.

(6) The Justice of the Peace shall not have jurisdiction to adjudicate upon a set-off or claim exceeding the claim for wages, except to the extent of the wages. R.S.O. 1897, c. 157, s. 15 *part*.

5. Where the proceedings are taken before a Police Magistrate, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a Division Court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the Police Magistrate shall have the like power and authority to enforce payment of the debt as are possessed by a judge of a Division Court in like cases; and the practice and proceedings thereon shall be the same as nearly as may be and have the same effect as provided in *The Division Courts Act* with respect to judgment debtors. R.S.O. 1897, c. 157, s. 13.

Proceedings
before a
Police
Magistrate.

10 Edw. VII.,
c. 32.

6. Subject to the provisions of section 7, the Police Magistrate may name in the order for payment of wages, such time not exceeding 21 days, as to him may seem just and reasonable for the payment of the same and costs, and in case of non-payment within such time the complainant shall be entitled to take forthwith the proceedings for enforcing payment herein provided. R.S.O. 1897, c. 157, s. 14.

Limit of time
or payment.

SPECIAL PROCEEDINGS BEFORE CITY POLICE MAGISTRATES.

7.—(1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 4 of *The Mechanics' and Wage Earners' Lien Act*, the jurisdiction of a Police Magistrate of a city under this Act shall extend to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$40.

Jurisdiction
of Police
Magistrate in
cities.

10 Edw. VII.,
c. 69.

(2) Where no specific rate of wages has been expressly agreed to between the parties, the Police Magistrate of a city may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance. R.S.O. 1897, c. 157, s. 15, *part*.

Where no
specific rate of
wages agreed
on.

(3)

Order for
payment of
wages; en-
forcing.

(3) The order shall direct payment of the wages to be made forthwith, and a warrant of distress shall be issued accordingly, unless the master makes oath, and the Police Magistrate believes, that the master is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the Police Magistrate considers the proposed delay to be under the circumstances reasonable, and the Magistrate, if he sees fit, may order security to be given as a condition of delay.

Adjournment
at instance of
master.

(4) In case of an adjournment at the instance of the master, the same shall be on payment for the claimant's time in attending the court, the amount to be fixed by the Police Magistrate, and such payment shall be made forthwith unless the Police Magistrate sees reason for dispensing with immediate payment.

Order of
Police Magis-
trate may be
enforced in
Division
Court.

(5) The order for payment may be filed in that Division Court which would be the proper Court for bringing an action for the wages, and on such filing the order shall become a judgment of such Division Court, and may be enforced as a judgment of that Court. R.S.O. 1897, c. 157, s. 16.

SERVICE OF SUMMONS.

Service of
summons, etc.

8.—(1) Every summons issued under this Act against an individual, firm or corporation, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served, except in the cases provided for by subsection 2, upon the person to whom it is directed either by delivering it to him personally, or if he cannot conveniently be found, by leaving the same for him at any place where such individual, firm or corporation carries on business within the county or district in which the Justice of the Peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person. R.S.O. 1897, c. 157, s. 17 (1); 63 V. c. 17, s. 20.

Service on
certain public
companies.

(2) In cases against railway, telegraph, telephone or express companies every such summons and other papers may be served on any agent of the company whose office or place of business as such agent is within such county or district; and for the purposes of this section the word "agent" shall include:—

(a) In the case of a railway company, a station master having charge of a station belonging to the company;

(b)

- (b) In the case of a telegraph company, a person having charge of a telegraph office belonging to the company;
- (c) In the case of a telephone company, a person having charge of a telephone office belonging to the company; and
- (d) In the case of an express company, a person having charge of an express office belonging to the company.

(3) Service as authorized by this section shall have the same effect as personal service. R.S.O. 1897, c. 157, s. 17 ^{Effect of service under this section.}
(2-3).

APPEALS.

9.—(1) An appeal from an order for the payment of wages, or order of dismissal from service or employment or against any decision of any Justice of the Peace or Police Magistrate under this Act shall be made to the Division Court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the Division Court holden in the division in which the party or parties complained against or one of them carried on business, and in case of dismissal of the appeal or affirmance of the order or decision, the Court appealed to shall enforce the order for payment of wages or of dismissal, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect. R.S.O. 1897, c. 157, ss. 18 and 23. ^{Mode of appeal.}

(2) The appeal shall be taken within the time and in the manner provided by *The Ontario Summary Convictions Act* as to appeals to a Division Court and the proceedings upon and incidental to the appeal and subsequent thereto shall except as provided by subsection 1 and by section 10 be the same as in the case of an appeal under *The Ontario Summary Convictions Act*. ^{10 Edw. VII, c. 87.}

10.—(1) The appeal may be tried with a jury if the appellant files with the clerk of the court within ten days after the order or decision a notice requiring a jury, or if the respondent, within four days after the service of the notice of appeal upon him, files a notice with the clerk, requiring a jury, and if the proper fees are in either case deposited with the clerk; otherwise the Judge may try the appeal ^{Trial with or without jury.}

appeal without a jury or may summon a jury from the body of the Court as to him seems meet. R.S.O. 1897, c. 157, s. 21.

Time and
place for
hearing
appeals.

(2) Upon the application of either party when a jury is not required the Judge may try the appeal at such time and place as he may appoint, and upon such notice as to him seems reasonable. R.S.O. 1897, c. 157, s. 22.

AGREEMENTS WAIVING ACT.

Contracts
waiving
application
Act to be
void.

11.—(1) Every agreement or bargain, verbal or written, of expressed or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. R.S.O. 1897, c. 157, s. 24.

Section
not to apply
to certain
persons.

(2) This section shall not apply to any manager, officer or foreman or to any other person whose wages are more than \$5 a day. R.S.O. 1897, c. 157, s. 25.

Repeal.

12. Chapter 157 of the Revised Statutes, 1897, excepting section 1, and all amendments thereto, are repealed.

Commence-
ment of Act.

13. This Act shall come into force on the 1st day of June, 1910.

CHAPTER 74.

An Act respecting Councils of Conciliation and of Arbitration for settling Industrial Disputes.

Assented to 7th March, 1910.

SHORT TITLE, s. 1.	POWERS OF COUNCILS, s. 23.
INTERPRETATION, s. 2.	PROFESSIONAL ASSISTANCE PROHIBITED, s. 24.
DISPUTES WITHIN THE ACT, s. 3.	PARTIES NOT TO PAY REGISTRAR, s. 25.
REGISTRAR, s. 4.	REMUNERATION OF MEMBERS OF COUNCIL, s. 26.
COUNCIL OF CONCILIATION, s. 5.	WITNESS FEES, s. 27.
PROCEDURE FOR CONCILIATION, ss. 6-13.	REGULATIONS AND FORMS, s. 28.
COUNCILS OF ARBITRATION, ss. 14, 15.	IRREGULARITIES, s. 29.
PROCEDURE FOR ARBITRATION, ss. 16-22.	REPEAL, s. 30.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Trade Disputes Act.*" Short title.
R.S.O. 1897, c. 158, s. 1.

2. In this Act,

Interpreta-
tion.

(a) "Employer" shall mean and include any person "Employer."
or body of persons, incorporated or unincorporated employing not less than ten workmen in the business in which the trade dispute has arisen;

(b) "Employees" shall mean and include a person or "Employees."
persons in the employment of an employer
R.S.O. 1897, c. 158, s. 2.

3.—(1) A claim or dispute under this Act shall include Claims and
disputes
within the
Act.
any disagreement between an employer and his employees
in respect of:—

(a) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages, or to the hours or times of working;

(b)

- (b) Damage alleged to have been done to work, delay in finishing the same, not finishing the same in a good and workmanlike manner or according to agreement;
- (c) Materials supplied to employees and alleged to be bad, or unfit, or unsuitable;
- (d) The price to be paid for mining any mineral or substance mined, or obtained by mining, hewing, quarrying or other process; or the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral substance is impeded;
- (e) The performance or non-performance of any stipulation or matter alleged to have been in an agreement, whether in writing or not;
- (f) Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind;
- (g) Ill-ventilated or dangerous workings or places in mines, or unwholesome or insanitary rooms or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places;
- (h) The dismissal or employment under agreement of employees, or,
- (i) The dismissal of employees for their connection with any trade or labour organization.

(2) No claim or dispute shall be the subject of conciliation or arbitration in any case in which the employees affected by such claim or dispute shall be fewer in number than ten. R.S.O. 1897, c. 158, s. 3.

Office of
Registrar.

4.—(1) The Lieutenant-Governor in Council may appoint a Registrar of Councils of Conciliation and of Arbitration for the settlement of industrial disputes.

(2) Such office shall be assigned to some person performing other duties in the public service, unless and until the duties are so onerous as to require a separate appointment.

(3)

(3) It shall be the duty of the Registrar to receive and register, and, subject to the provisions of this Act, to deal with all applications by employers or employees for reference to a Council of Conciliation or to the Council of Arbitration, of any claim or dispute within the meaning of this Act; to convene such councils for the purpose of dealing with any claim or dispute, to keep a register in which shall be entered the particulars of all references and settlements of claims and disputes made to and by a Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties under this Act or the regulations made in pursuance thereof.

Duties, etc.,
of Registrar.

(4) The Registrar shall issue all summonses, Form 15, to witnesses to attend to give evidence, with or without the production of papers and documents, and shall issue all notices and perform all other acts in connection with the sittings of each such Council in the prescribed manner. R.S.O. 1897, c. 158, s. 4.

Registrar to
summon wit-
nesses and
issue notices.

(5) If any difference shall arise between any employer and his employees, likely to result, or resulting in a strike on the part of such employees, or a lockout on the part of the employer, it shall be the duty of the Registrar, when requested in writing to do so by five or more of the employees, or by the employer, or by the head of the municipality in which the industry is situated, to visit the place of such disturbance and diligently seek to mediate between the employer and employees.

Registrar to
proceed to
locality where
strike or lock-
out threat-
ened.

(6) It shall be the duty of the Registrar to promote conditions favourable to a settlement by endeavouring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of differences to conciliation or arbitration before resorting to a strike or lock-out. 2 Edw. VII., c. 22, s. 1.

Duty of
Registrar in
adjusting
disputes.

COUNCIL OF CONCILIATION.

5.—(1) A Council of Conciliation for the purpose of any dispute or claim shall consist of four conciliators, two to be nominated by each of the parties to the dispute.

Councils of
conciliation.

(2) The nomination shall be by writing lodged with the Registrar.

Nomination
of conciliators.

(3)

Filing
nomination
papers.

(3) Either party may lodge the nomination papers with the Registrar at any time after the dispute has arisen; and if the Registrar has not already received a nomination of two conciliators on behalf of the other party, he shall give notice to such other party of the nomination which he has received.

Extraordinary
vacancies.

(4) Any vacancy in a Council of Conciliation arising through the death, resignation, or otherwise, of any member thereof shall be filled in the same way as the appointment was first made, namely, on the nomination of the party whose conciliator has ceased to be a member of the Council. R.S.O. 1897, c. 158, s. 5.

PROCEDURE FOR CONCILIATION.

Reference
to council of
conciliation.

6. A claim or dispute within the meaning of this Act may be referred for settlement to a Council of Conciliation where:—

Agreement to
refer.

(a) The parties to the claim or dispute jointly agree in the prescribed manner, Form 2, to refer such claim or dispute for settlement to a Council of Conciliation, or,

Application
for reference.

(b) Either party to the claim or dispute in the prescribed manner, lodges an application, Form 3, with the Registrar requesting that the claim or dispute be referred for settlement to a Council of Conciliation. R.S.O. 1897, c. 158, s. 6.

Duties of
Registrar
on application
for reference.

7. The Registrar, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council; and subject to the provisions of this Act and the regulations shall carry out all directions of the said Council given in the endeavour of the Council to effect a settlement of the claim or dispute. R.S.O. 1897, c. 158, s. 7.

Representa-
tives before
council of
conciliation.

8. Either party to the claim or dispute may, for the purposes of this Act, be represented by one or more persons, not exceeding three, authorized by such party as managers in that behalf; and such party shall be bound by the acts of such managers. R.S.O. 1897, c. 158, s. 8.

When man-
agers must
have written
authority.

9. Where the party numbers fewer than twenty, the managers must be authorized in writing, Form 4, signed by the members of the party to act for and on their behalf. R.S.O. 1897, c. 158, s. 9.

10.—(1) Where the party numbers twenty or more, the managers may be appointed or elected in such manner as the members of the party think proper. Election of managers as representatives.

(2) A copy of the resolution electing the managers, together with a declaration by the chairman or president of the meeting stating it to have been carried, shall be kept as a record of the election. R.S.O. 1897, c. 158, s. 10.

11.—(1) The parties to the claim or dispute shall, if possible, agree to a joint written statement of their case; but if they do not so agree, a statement in writing from each party shall be made. Written statement of case.

(2) The statement or statements shall be forwarded to the Registrar before the meeting of the Council. R.S.O. 1897, c. 158, s. 11.

12. When the parties to a claim or dispute have named their conciliators, the Registrar shall by notice in writing, Form 5, convene a meeting of the conciliators at a time and place mentioned in the notice, the same being selected with due regard to the general convenience of the conciliators and the parties. R.S.O. 1897, c. 158, s. 12. Convening meeting of conciliators.

13.—(1) The Council shall transmit to the Registrar a report, Form 6 and 7, setting forth the result of the reference. Report of council.

(2) In case such report is to the effect that the Council has failed to bring about any settlement or adjustment of the claim or dispute, the Registrar on the receipt of the report, shall transmit a certified copy to each party to the claim or dispute; whereupon either party may, by notice in writing, Forms 8 and 9, require the Registrar to refer the claim or dispute to the Council of Arbitration for settlement, Form 10. R.S.O. 1897, c. 158, s. 13. When council report their failure to bring about settlement.

THE COUNCILS OF ARBITRATION.

14.—(1) There shall be two Councils of Arbitration,

(a) A Council of Arbitration for the settlement by award in respect of claims and disputes between railway companies, including street railway companies, and wage earners employed in respect of railway construction or traffic on railways; and

Establishment of councils of arbitration.

(b)

(b) A Council of Arbitration in respect of other claims and disputes.

Each council to consist of three members.

(2) Each Council shall consist of three members, one to be appointed by the Lieutenant-Governor on the recommendation of the employees, and one to be appointed by him on the recommendation of the employer.

Appointment of president by agreement.

(3) The third member of each Council shall be the president of the Council and shall be appointed in manner following, namely: The two members appointed shall within twenty-one days after their appointment, submit, Form 1, to the Lieutenant-Governor the name of some impartial person to be appointed by him to the position of President.

Appointment of president on failure to agree.

(4) In case of the said two members failing so to do, the Lieutenant-Governor may appoint as President an impartial person not personally connected with or, interested in any trade or industry, or in the judgment of the Lieutenant-Governor likely, by reason of his former occupation, business vocation or other influence, to be biassed in favour of or against employers or employees.

(5) The same person may be President of both Councils.

Council to be gazetted.

(6) As soon as practicable after a full Council has been appointed by the Lieutenant-Governor, notice of the appointment and the names of the members of the Council shall be published by the Registrar in the *Ontario Gazette*.

Cancellation of appointment of member of council.

(7) The Lieutenant-Governor may cancel the appointment of any member on the recommendation of the authority by which his appointment was recommended.

Term of office.

(8) The term of office of a member shall be two years; and at the end of every term of two years, a fresh appointment of members shall be made in manner aforesaid.

Members eligible for re-appointment.

(9) Every member after the expiry or other termination of his term of office shall be eligible for reappointment for a like term.

When president or members to forfeit office.

(10) If the President of a Council shall be declared a bankrupt or insolvent, or shall make a composition with his creditors, or shall make an assignment of his property or salary for the benefit of his creditors, or if any member of either council shall be convicted of any criminal offence, such President or member respectively shall thereby vacate his office of member.

(11) Any vacancy in a council arising from death, resignation or other cause, shall be filled by the Lieutenant-Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

Vacancies,
disabilities,
etc.

(12) In case the President of a council is unable to act as such from illness, absence from the Province, or other temporary cause, the Lieutenant-Governor may appoint a person to be acting President of the Council in his place; and such acting President shall have all the powers and perform all the duties conferred by this Act upon the President.

Temporary
appointment
of president.

(13) If any member of a Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any claim or dispute then pending, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Lieutenant-Governor, of a member named in such writing to act for and in the place of the member during such disability; and if either of the parties refuse such consent, then the Judge of the County or District Court of the county or district in which the matter is situate with respect to which the claim or dispute has arisen may, on notice to the parties of the application to him, make the nomination; and the Lieutenant-Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all the purposes relating to such claim or dispute, and to the hearing and determination thereof.

Illness or
disability of
member of
council while
reference
pending.

(14) Where a dispute has been referred to either Council of Arbitration the members of the Council of Conciliation may, with the consent in writing, Form 13, of both parties to the claim or dispute, sit as assessors upon the reference to the Council of Arbitration; Provided always that no such assessor shall take any part in the reference except as an assessor sitting to inform the Council of Arbitration when called upon to do so.

Members of
council of
conciliation
may sit as
assessors.

Provino.

(15) The members of each Council of Arbitration shall be remunerated for their services in such manner and according to such rate of payment as the Lieutenant-Governor in Council shall appoint, but subject to legislative provision being made therefor. R.S.O. 1897, c. 158, s. 14.

Remuneration
of members of
councils.

15. The following may be the method of ascertaining the recommendation of employer and employees as to the persons to be appointed on their recommendation respectively as members of the Councils of Arbitration:

Mode of
appointing
arbitrators
by employers
and em-
ployees.

(a)

Qualification
of voters in
the interest
of employers.

- (a) For the person to be recommended by the employer every employer in Ontario shall be entitled to one vote; every organization in Ontario, whether incorporated or unincorporated, representing the interests of employers, each member of which has at least ten persons in his employment, shall be entitled to one vote;

- (b) Every Board of Trade in Ontario legally constituted shall be entitled to one vote for a representative of the employer in each Council;

Who may vote
for person to
be recom-
mended in
the interest
of employees.

- (c) For the person to be recommended by employees as a member of the Council in matters not relating to railway companies, every trades and labour council, every district assembly of the Knights of Labour, every federated council of building trades, every lawfully incorporated trades union, every organization of wage-earners of an industrial calling primarily constituted for, and actually and *bona fide* operated for the regulation of the wages and hours of labour as between employers and employed, shall be entitled to one vote; but this shall not be deemed to include co-operative associations or societies formed under *The Revised Statute respecting Co-operative Associations*;

Rev. Stat.
c. 202.

Who may
vote for per-
son to be
recommended
in the interest
of railway
employees.

- (d) For choosing the person to be recommended by employees of railway companies as a member of the Council in matters relating to railways, every organization in Ontario, whether incorporated or unincorporated exclusively representing the interest of wage-earners employed in respect of railway construction or traffic on railways shall be entitled to one vote; but this shall not be deemed to include co-operative associations or societies;

Notice to
representative
interests.

- (e) The Registrar shall give notice in the *Ontario Gazette* calling on all organizations and persons entitled to vote for a member to be recommended to either Council, or claiming to be so entitled, to communicate with him on or before the 1st day of August, 1910, and the same day of every second year thereafter. Such notice is to be inserted for at least four weeks before the said day in each of the said years;

Lists to be
prepared.

- (f) The Registrar shall forthwith, after such first day of August, prepare a list of the persons and organizations

ganizations appearing to be entitled to vote for a person to be recommended for appointment to each of the said Councils respectively, and may refer any doubtful claim to the Minister of Agriculture for his advice or direction;

- (g) Each list so to be prepared shall give the last known post office address of every person and organization entitled to vote as employers and employees respectively for the said Councils respectively, and shall be published in the *Ontario Gazette*, and shall be open to inspection at any time by any person without fee, in the office of the Registrar during office hours;
- (h) Between the 1st and 30th days of September, 1910, and between the same days of every second year thereafter, the Registrar shall transmit by registered post to the address of each person and organization entitled to vote, a voting paper, Form 16. Voting papers to be transmitted to persons entitled to vote.
- (i) The voting paper of any person entitled to vote under this Act as an employer shall be signed by himself or some person duly authorized in writing in that behalf, and the voting paper of any organization entitled to vote shall be signed by the president or vice-president of the organization, or, in the absence of such president or vice-president, by any office bearer of the organization other than the secretary thereof, and shall be countersigned by the secretary or acting secretary, or, in the absence of such secretary or acting secretary, by any two members not being office bearers. The voting papers of a Board of Trade shall be under the corporate seal of the Board; Signing voting papers.
- (j) The voting paper shall be forwarded in a stamped envelope, addressed to the Registrar of Councils of Conciliation and Arbitration, Toronto, and endorsed, "Voting paper under *The Trade Disputes Act*;" Addressing voting papers.
- (k) Every voting paper shall be forwarded by mail or otherwise to the Registrar so as to be received by him on or before the 15th day of October of the year in which the voting is to be held and any voting paper received by the Registrar after the said date shall have no effect or validity; When voting papers to be mailed. Voting papers not received in time.

Count of
votes and
report to
be published.

- (l) The Registrar shall forthwith after the said 15th day of October, count the recommendations as well by or on behalf of employees, as by or on behalf of employers for each Council, and shall forward the same to the Minister of Agriculture, together with the Registrar's report thereon; and the Minister of Agriculture, upon being satisfied of the accuracy of such report, shall publish in the *Ontario Gazette* the result of such recommendations, and the names of the persons appointed by the Lieutenant-Governor upon such recommendations to be members of the Councils of Arbitration; and also the names of, and number of votes given for the five persons who have received the greater number of votes for each Council on behalf of employers and employees respectively;

Where parties
fail to recom-
mend member
of council of
arbitration.

- (m) In case either employers or employees, or both, fail to recommend any person to represent them on either or both the Councils as provided for in this section, the Lieutenant-Governor in Council may appoint a person or persons to fill the vacancy or vacancies. R.S.O. 1897, c. 158, s. 15.

PROCEDURE FOR ARBITRATION.

Reference to
arbitration,
how made,
etc.

16.—(1) Any dispute or claim within the meaning of this Act may be referred to the appropriate Council of Arbitration for its hearing and determination in any of the following cases:—

- (a) On application, Form 9, to the Registrar by either party to a claim or dispute which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council;
- (b) On application, Form 8, to the Registrar by both parties to a claim or dispute, which has not been so referred to a Council of Conciliation.

Provide

Provided that if in either case the award of the Council of Arbitration is not complied with or carried out by the parties, or for any reason proves abortive, the parties to the reference or either of them shall not thereby be precluded from referring the dispute to a Council of Conciliation or from making a second reference to the Council of Conciliation where a former reference has already been made to it.

(2) If in case of a claim or dispute within the meaning of this Act, one party has lodged an application with the Registrar requesting that the dispute or claim be referred to a Council of Conciliation, and appointing two conciliators for the purpose and notice of the application and of the appointment of conciliators has been duly given to the other party, and such other party has not within a reasonable period appointed conciliators, and the party lodging the application has not proceeded to a strike or lock-out, as the case may be, the Council of Arbitration, if it thinks fit, may proceed as in case of an abortive reference to a Council of Conciliation, and such Council may report their decision, as to the proper settlement of the dispute in question and also in case the Council thinks proper, a concise statement as to the origin of the dispute, and the causes inducing the same, and what parties, if any, are in the opinion of the Council mainly responsible for the same;

Where attempt to take conciliation proceedings has failed.

(3) The Mayor of any city or town upon being notified that a strike or lock-out is threatened, or has actually occurred within the municipality, shall at once notify the Registrar thereof by writing, stating the name of the employer, the nature of the dispute, and the number of employees involved, as far as his information will enable him so to do;

Mayors to notify registrar of strike or lock-out.

(4) It shall be the duty of each of the Councils of Arbitration, upon being notified, or on being otherwise made aware, that a strike or a lock-out has occurred or is threatened, to place itself, as soon as practicable, in communication with the parties concerned and to endeavor by mediation to effect an amicable settlement, and if in the judgment of the council it is deemed best to enquire into the cause or causes of the controversy it shall proceed as in the case of a reference. R.S.O. 1897, c. 158, s. 16.

Duty of councils of arbitration on being notified of strike or lock-out.

17. In every case referred to a Council of Arbitration, or in which the Council has determined to act under the preceding section of this Act, the Council shall have power to require either or each party to the claim or dispute to name not more than three persons, who, upon their consent in writing, Form 14, shall for all purposes of the reference be taken to represent such party. R.S.O. 1897, c. 158, s. 17.

Provisions as to parties and representatives.

18.—(1) The Council shall sit and conduct its proceedings as in open court, and in making its decision shall be governed by the principles of equity and good conscience.

Conduct of proceedings of council of arbitration.

(2) The President shall for the purpose of preserving order during any sitting of the Council have all the powers of a Judge of the High Court except the power of committing for contempt. R.S.O. 1897, c. 158, s. 18.

Quorum of
council of
arbitration.

19. Any two members of the Council of Arbitration shall constitute a quorum for the transaction of business, and may hold meetings at any time and at any place within Ontario. R.S.O. 1897, c. 158, s. 19.

Investigation
of disputes by
one member
of board.

20. The Council of Arbitration may order that an examination or investigation shall be held before any one member of the Council, but such member shall report upon such examination or investigation to the Council, and the decision of such member shall not be considered binding until approved by the Council or a majority thereof. R.S.O. 1897, c. 158, s. 20.

Award, how
to be made.

21.—(1) The report or award, Form 11, of the Council of Arbitration shall be made within one month after the Council has completed its sittings for the hearing of the reference, and shall be by, and under the hands of, a majority of the members of the Council.

(2) At the request of either party and if the Council approve, a copy of the report or award shall be published by the Registrar in *The Ontario Gazette*.

(3) The report or award, or a copy certified under the hand of the President of the Council, shall be deposited in the office of the Registrar, and shall be open to inspection without charge during office hours. R.S.O. 1897, c. 158, s. 21.

Award may
be enforced
by legal pro-
ceedings if
so agreed.

22.—(1) Either party to a reference to either Council of Arbitration at any time before award made, may by writing under the hands of such party, Form 12, agree to be bound by the award of the Council upon the reference in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

9 Edw. VII.
c. 85.

(2) Every such agreement made by one party shall be communicated by the Registrar to the other party, and if such other party also agrees in like manner to be bound, then the award may, on the application of either party, be enforced in the same manner as an award on an ordinary submission in writing to arbitration may be enforced under the said Act. R.S.O. 1897, c. 158, s. 22.

MISCELLANEOUS PROVISIONS.

23. The Councils of Conciliation and Arbitration shall have power— Powers of councils.

(a) To visit the locality where the trade dispute has arisen and to hear all persons interested who may come before them; To visit locality.

(b) To summon, Form 15, any person to attend as a witness before the Council, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees, application may be made in a summary way to a Justice of the Peace having jurisdiction in the city, town or county wherein the council may be sitting for an order compelling such attendance; and such Justice of the Peace is hereby empowered to make such order as might be made in any case wherein such Justice has power to compel appearance before him in pursuance of *The Ontario Summary Convictions Act*, and Enforcing attendance of witnesses.

(c) To administer an oath to any person attending as a witness before the Council and to examine any such person on oath or affirmation. R.S.O. 1897, c. 158, s. 23. Taking evidence on oath.

24. No party to any proceeding either before a Council of Conciliation or a Council of Arbitration shall be represented by counsel or solicitor or by any paid agent other than one or more of the persons between whom the claim or dispute has arisen. R.S.O. 1897, c. 158, s. 24. Professional assistance not permitted

25. No fees shall be paid to the Registrar by any party in respect of any proceeding under this Act. R.S.O. 1897, c. 158, s. 25. Registrar not to receive fees.

26. Every member of a Council of Conciliation while engaged in adjustment of any dispute shall be remunerated for his services as follows:— Remuneration of members of council of conciliation

Preliminary meetings	\$3
Whole-day sittings	\$4
Half-day sittings	\$2

out of any funds which may be appropriated by the Legislature for that purpose. R.S.O. 1897, c. 158, s. 26.

Witnesses' fees.

27. Witnesses shall be entitled to the same fees as in a Division Court. R.S.O. 1897, c. 158, s. 27.

Regulations.

28.—(1) The Lieutenant-Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act, and all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Ontario Gazette*.

(2) Such regulations shall be laid before the Assembly within fourteen days after being published in the *Ontario Gazette* if the Legislature is in session; and if it is not in session, then such regulations shall be laid before the Assembly within fourteen days from the date of the first day of the ensuing session of the Legislature. R.S.O. 1897, c. 158, s. 28.

Informalities not to invalidate proceedings.

29. No proceeding under this Act shall be deemed invalid by reason of any defect of form, or any technical irregularity. R.S.O. 1897, c. 158, s. 30.

Repeal.

30. Chapter 158 of the Revised Statutes 1897, and all amendments thereto are repealed.

FORM 1.

RECOMMENDATION AS TO PRESIDENT OF THE COUNCIL OF ARBITRATION.

We, the undersigned arbitrators, appointed under the provisions of *The Trade Disputes Act*, submit the name of _____ of _____ as that of an impartial person, qualified for the position of President of the Council of Arbitration as respects railway disputes (or as respects disputes other than railway disputes).

Dated this _____ day of _____

FORM 2.

AGREEMENT OF BOTH PARTIES TO REFER TO CONCILIATION.

(To be prepared in duplicate.)

Memorandum of agreement made this _____ day of _____, between _____, employers, and _____, employees.

Whereas a claim or dispute in respect of matters hereinafter stated has arisen between the parties hereto, they do hereby refer the said claim or dispute for settlement to a council of conciliation, and we, the undersigned, as managers for the said employers, do hereby name and declare _____ and _____

_____ to be conciliators for such employers; and we, the undersigned, as managers for the employees, do hereby name _____ and _____ to be the conciliators for such employees upon such council as aforesaid.

The claim or dispute is as follows (*here state the matter or matters in dispute*).

Now

Now, we, the parties hereto, do hereby request the Registrar to have the said claim or dispute referred to a council of conciliation consisting of the aforesaid persons.

(To be signed by the)

Managers for the Employers.

Managers for the Employees.

Witness:

(Appointment of Managers to be attached).

See Form 4.

FORM 3.

APPLICATION BY ONE PARTY TO REFER TO CONCILIATION.

(Date.)

Whereas a claim or dispute has arisen between employers and employees; we, the undersigned managers for and on behalf of the aforesaid, apply to have the said claim or dispute referred to a council of conciliation, and hereby name and declare of and of to be our conciliators upon such council as aforesaid.

The dispute or claim is as follows *(here state the matter or matters in dispute.)*

Managers for

(Appointment of Managers to be attached.)

See Form 4.

FORM 4.

AUTHORITY TO MANAGERS TO ACT.

We, the undersigned employers (or employees), one of the parties to the claim or dispute between and and authorize of of and of to represent us, as managers before the council of conciliation and we hereby agree to be bound by the acts of these our representatives.

Dated this day of 19

(Where the appointment is made by employees it should be signed by not fewer than ten of such employees.)

Witness:

FORM 5.

CONVENING A MEETING OF CONCILIATORS.

(Date.)

I beg to inform you that you have been selected as a conciliator to deal with a certain dispute or claim between employers and employees.

You are requested to attend a meeting of the conciliators in the above matter, to be held on the day of at in the when the application in the said matter will be laid before you.

I have the honour to be

Your obedient servant,

A.B., Registrar.

FORM

FORM 6.

TERMS OF SETTLEMENT OR ADJUSTMENT AFTER REFERENCE TO COUNCIL
OF CONCILIATION.

Memorandum of settlement made this _____ day of _____
between _____, employers, and
employees.

Whereas a claim or dispute having arisen between
employers and _____ employees _____ were appointed
conciliators, and the undersigned _____ were appointed
managers for the said _____ and the undersigned, _____ were
appointed managers for the said _____ it is hereby declared
that a settlement or adjustment of the said claim or dispute has
been arrived at in the following terms, to which terms the said
managers hereby agree for and on behalf of the said parties re-
spectively:

(Set forth terms of settlement.)

In witness whereof we, the undersigned, have hereunto set our
hands.

A.B., C.D., Managers for Employers.

E.F., G.H., Managers for Employees.

I., J., K., Conciliators.

FORM 7.

REPORT BY CONCILIATORS OF FAILURE TO SETTLE.

(Date.)

To the Registrar.

Whereas a certain claim or dispute was referred to us for con-
ciliation by _____, employers and
employees, and such conciliation was duly entered upon, the parties
aforesaid being duly represented by their respective managers and
evidence was taken (*omit the latter words if such was not the case*),
and the claim or dispute referred to us was fully discussed, but no
settlement or adjustment was arrived at. Now, we, the conciliators
hereinafter subscribed, report that we have been unable to bring
about any settlement or adjustment of the claim or dispute so re-
ferred, satisfactory to the parties thereto.

A. B., C. D., Conciliators.

FORM 8.

JOINT APPLICATION TO REFER TO THE COUNCIL OF ARBITRATION.

(Date.)

To the Registrar under *The Trade Disputes Act*.

Whereas a claim or dispute in respect of matters hereinafter
stated has arisen between _____, employer and
employees.

We, the undersigned, _____ managers for the said em-
ployers, and we, the undersigned, _____ managers for the
said employees, duly appointed to represent the interests of the
said parties respectively hereby apply to have the said claim or
dispute referred to the council of arbitration.

The

The claim or dispute is as follows:

(Here state the matter in dispute.)

Managers for Employers.

Managers for Employees.

(Appointment of Managers to be attached.)

See Form 4.

FORM 9.

APPLICATION BY ONE PARTY TO REFER TO THE COUNCIL OF ARBITRATION AFTER FAILURE OF COUNCIL OF CONCILIATION.

(Date.)

To the Registrar under *The Trade Disputes Act.*

Whereas a claim or dispute having arisen between employers, and _____ employees, was referred to a council of conciliation, and the said council failed to settle or adjust the same; now, therefore, we, the undersigned, being the managers duly appointed to represent _____, one of the parties to the said reference, do hereby require you to refer the said claim or dispute to the council of arbitration.

Managers.

FORM 10.

REFERENCE TO COUNCIL OF ARBITRATION AFTER FAILURE OF COUNCIL OF CONCILIATION.

(Date.)

To the President of the Council of Arbitration as respects railway disputes (or as respects disputes other than railway disputes.)

Whereas a certain claim or dispute having arisen between and the same was referred for conciliation to and they have reported that they have been unable to bring about any settlement or adjustment of the said claim or dispute satisfactory to the parties thereto, and whereas one of the parties to the claim or dispute requires such claim or dispute to be referred to the council of arbitration. Now therefore, I do so refer the said claim or dispute to the said council, and herewith transmit all the papers in the said reference to you as president of the said council.

Registrar.

FORM 11.

AWARD.

We, President and Arbitrators as respects railway disputes (or as respects disputes other than railway disputes) (or a majority of the council of arbitration), in the claim or dispute between employers, and employees, do hereby award that
(here set forth the award.)

Given under our hands this day of A.D. 19

(President.)
(Arbitrators.)

Witness:

(Registrar.)

FORM

FORM 12.

AGREEMENT TO BE BOUND BY AWARD.

Memorandum of Agreement made this _____ day of
19____, between _____ and _____

Whereas certain claims or disputes (*here state shortly the nature of the claim or dispute*) have arisen between the parties hereto, and it is desirable to refer the same to the council of arbitration as respects railway disputes (*or as respects disputes other than railway disputes*) and for the said parties to be bound by the award of the said council of arbitration in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

Now it is hereby agreed by and between the parties aforesaid to refer the said claims or disputes to the award of the said council of arbitration, and each of the said parties agrees with the other to be bound by the award of the said council in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

In witness whereof, we, the managers duly appointed and authorized to represent the parties hereto, have hereunto set our hands the day and year above written.

Witness:

Managers for Employers.

Managers for Employees.

FORM 13.

CONSENT OF PARTIES TO CONCILIATORS BEING ASSESSORS IN COUNCIL OF ARBITRATION.

(Date.)

We, the managers appointed to represent the parties in the matter of the claim or dispute between _____, employers, and _____ employees, hereby consent to _____ members of the council of conciliation to which the matter aforesaid was referred, sitting as assessors upon the reference to the council of arbitration.

Managers for Employers.

Managers for Employees.

FORM 14.

CONSENT OF MANAGERS TO ACT BEFORE THE COUNCIL OF ARBITRATION.

(Date.)

To the Registrar.

Whereas the council of arbitration has required _____ one of the parties to a claim or dispute between _____ and _____ referred to the said Council for award, to name not more than three persons, who, upon their consent in writing, shall for all purposes of the above reference be taken to represent such persons, now we, the undersigned, having been duly named as such persons, do hereby consent to represent the said party for all the purposes of the hereinbefore mentioned reference and in witness of such consent hereunto set our hands.

(Signed)

Witness:

FORM

FORM 15.

SUMMONS TO WITNESSES BEFORE EITHER COUNCIL.

To

Whereas a council of conciliation (or the council of arbitration as respects railway disputes) (or as respects disputes other than railway disputes (constituted under *The Trade Disputes Act* has now before it for conciliation (or arbitration, as the case may be), a claim or dispute between _____ employers, and _____ employees; and whereas the said

_____ desire that you should attend before the said council _____ witness to give evidence, and have authorized and required me _____ as registrar, to issue this summons for

your attendance. I do hereby, in exercise of the powers in this behalf given by the said Act, summon and require you to attend at _____, on _____, the _____ day of _____ at the

hour of _____, in the _____ noon of the said day, at _____, before the said council, there to be examined and give evidence as to and concerning the said claim or dispute, and so to attend from day to day thereafter until you have been duly discharged by the said council from further attendance.

[And I further require you to bring with you and produce at the time and place aforesaid (documents, etc., if any, required to be produced by witness.)]

In default of your attending at the time and place aforesaid, you are liable to be proceeded against under the provisions of *The Trade Disputes Act*.

In witness whereof, I, the said _____, as such Registrar as aforesaid, have hereunto set my hand this _____ day of _____ 19 _____

A.B..

Registrar.

NOTE.—The witness is entitled to the same witness fees as in a Division Court.

FORM 16.

VOTING PAPER OF (naming the person or organization).

A.B. (person recommended) is hereby recommended to be appointed a member of the council of arbitration for disputes between railway companies and their employees (or in matters not relating to railway disputes) under *The Trade Disputes Act*, on behalf of the employer (or employees, as the case may be;)

(Signed,)

R.S.O. 1897, c. 158. Sched.

CHAPTER 75.

An Act to amend The Landlord and Tenant's Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation. 1. In this Act

"Tenant." (a) "Tenant" shall mean and include an occupant, a sub-tenant, under-tenant, and his and their assigns and legal representatives;

"Landlord." (b) "Landlord" shall mean and include the lessor, owner, the person giving or permitting the occupation of the premises in question and the person entitled to the possession thereof, and his and their heirs and assigns and legal representatives;

"A Judge." (c) "Judge" shall mean Judge of the County or District Court of the county or district in which such a distress as is hereinafter mentioned is made.

Disputes as right to dis-
train. 2. Where goods are distrained by a landlord for arrears of rent which he claims to be due to him, and the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods, or disputes the amount claimed by the landlord, the tenant may apply to the Judge to determine the matters so in dispute, and the Judge may hear and determine the same in a summary way, and may make such order in the premises as he may deem just.

Order of
Judge pending
determination
of dispute. 3. Where notice of such an application has been given to the landlord the Judge, pending the disposition of it by him, may make such order as he may deem just for the restoration to the tenant of the whole or of any part of the goods distrained, upon the tenant giving security, by payment into Court or otherwise as the Judge may direct, for the payment
of

of the rent which shall be found due to the landlord and for the costs of the distress and of the proceedings before the Judge and of any appeal from his order, or such of them as the tenant may be ordered to pay.

4. The Judge shall have jurisdiction and authority to determine any question arising upon the application which the Court of which he is Judge has jurisdiction to determine in an action brought in that Court. Jurisdiction of Judge.

5. Where the amount of the rent claimed by the landlord exceeds \$500 or where any question is raised which a County or District Court would not have jurisdiction to try in an action brought in such Court, the Judge shall not, without the consent in writing of the landlord, deal with the application summarily, but shall direct an action to be brought or an issue to be tried for the determination of the matters in dispute in any Court having jurisdiction to try the same in an action brought in that Court. When Judge to direct that action be brought or issue tried.

6. Where the Judge under the next preceding section directs an action to be brought or an issue to be tried, he shall have the like power as to the restoration to the tenant of the goods or of any part of them as is conferred by section 3, and where it is exercised the security shall be as provided in that section, except that, as to costs, it shall be not only for the costs of the proceedings before the Judge, but also for the costs of the action or issue, including any appeal therein or such of them as the tenant may be ordered to pay. Interim order for restoration of goods on security being given, etc.

7. The Court in which the action is brought or the issue is tried shall determine by whom and in what manner the costs of the action or issue and of the application to the Judge shall be borne and paid. Costs of proceedings.

8. Judgment may be entered in accordance with the direction of the Court before which the action or issue is tried, made at or after the trial, and may be enforced in like manner as a judgment of the Court. Entry of judgment.

9. Where the amount claimed by the landlord does not exceed \$100, the decision of the Judge shall be final. When decision of judge to be final.

10. Where the amount claimed by the landlord exceeds \$100, an appeal shall lie from any order of the Judge made on an application to him under the provisions of section 2, by which the matters in dispute are determined, in like manner as if the same were a judgment of the Court of which he is Judge, pronounced in an action. When appeal from Judge to lie.

Appeal when
action brought
or issue tried.

11. Where an action is brought or an issue is tried there shall be the same right of appeal from the judgment as if the judgment had been pronounced in an action in the Court by which the judgment was pronounced.

Scale of costs.

12. Where the amount claimed by the landlord does not exceed \$100 the costs of the proceedings before the Judge shall be on the Division Court scale, and where the amount claimed exceeds \$100 they shall be on the County Court scale, except in a High Court action directed under section 5.

Other remedies
of tenant.

13. Nothing in this Act shall take away or affect any remedy which a tenant may have against his landlord or require a tenant to proceed under this Act instead of by bringing an action of replevin or by an action claiming an injunction, but where instead of proceeding under this Act he proceeds by bringing an action of replevin or an action claiming an injunction, the Court in which the action is brought, if of opinion that it was unnecessarily brought and that a complete remedy might have been had by a proceeding under this Act, may direct the tenant although he succeeds to pay any additional costs occasioned by his having brought the action.

Commence-
ment of Act.

14. This Act shall come into force on the first day of September, 1910.

CHAPTER 76.

An Act to amend The Act respecting The Law Society of Upper Canada.

Assented to 19th March, 1910.

WE, HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Act respecting the Law Society of Upper Canada* (as amended by section 1 of the Act passed in the 63rd year of the reign of Her late Majesty, Queen Victoria, Chaptered 20) is hereby amended by adding after the words inserted by said amending Act, the words "or shall have been elected under this Act as a Benchers by members of the Bar at four quinquennial elections." Rev. Stat. c. 172, s. 4 amended. Ex-officio benchers.

2. Section 13 of *The Act respecting the Law Society of Upper Canada* is amended by adding the following subsection:— Rev. Stat. c. 172, s. 13 amended.

- (2) If among the thirty persons who have the highest number of votes is included any Benchers who by virtue of such election becomes an ex-officio Benchers, the scrutineers shall so report and the thirty other persons having the highest number of votes shall be Benchers of the said Law Society for the next term of five years. Where ex-officio benchers is elected.

3. Section 28 of the said Act is amended by adding there-to the following subsection:— Rev. Stat. c. 172, s. 28 amended.

- (2) The seat of any Benchers who is such *ex officio* by reason of having been elected at four quinquennial elections shall be vacated *ipso facto* by his non-attendance at the regular meetings of Convocation for the period of one year, or in the event of his ceasing to pay the usual Solicitors' and Barristers' fees to the Society. Vacating seat of ex-officio benchers for non-attendance.

CHAPTER 77.

An Act to amend The Ontario Medical Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Ontario Medical Amendment Act, 1910.*

Rev. Stat.
c. 176, s. 33
amended.

2.—(1) Subsection 2 of section 33 of *The Ontario Medical Act* is hereby amended by inserting after the word “council” where it occurs in the first line of the said subsection the following, “or the executive committee.”

Erasing
names from
register.

(2) The said subsection 2 of section 33 of the said Act is also amended by inserting after the word “conduct” where it occurs in the sixth line of the said subsection the words “the council.”

Erasure of
name on con-
viction of
crime.

(3) The said section 33 is also amended by adding thereto the following subsection as subsection 4 thereof:

“Upon receipt of proof of the finding or decision of any court of record of this Province civil or criminal, that a criminal offence has been committed in connection with the practice of his profession by any registered medical practitioner the registrar shall immediately erase from the register the name of such practitioner.”

Rev. Stat.
c. 176, s. 35
amended.

3. Section 35 of the said Act is hereby amended by adding thereto the following subsection as subsection 6 thereof,

Service of
notice.

“The notice required by the preceding subsection shall be deemed to have been duly served in accordance with the provisions thereof if sent by registered mail,

prepaid

prepaid, to the address of the person required to be served, as last entered upon the register.” ^{Schedule “A” amended.}

4.—(1) Schedule “A” of the said Act is hereby struck out, and in lieu thereof the schedule to this Act is substituted as schedule “A” of the said Act.

(2) The word “seventeen” wherever it occurs in section 6 of the said Act is hereby struck out, and the word “eighteen” inserted in lieu thereof.

SCHEDULE “A.”

(Sections 6 and 16.)

TERRITORIAL DIVISIONS.

1. Counties of Essex, Kent and Lambton.
2. Counties of Elgin, Norfolk and Oxford.
3. County of Middlesex.
4. Counties of Huron and Perth.
5. Counties of Waterloo and Wellington.
6. Counties of Bruce, Grey, Dufferin and Simcoe.
7. Counties of Wentworth, Halton and Peel.
8. Counties of Lincoln, Welland, Haldimand and Brant.
9. Districts of Parry Sound, Nipissing, Algoma, Manitoulin.
10. Thunder Bay and Rainy River.
11. That part of the City of Toronto lying east of Yonge Street.
12. That part of the City of Toronto lying west of Yonge Street.
13. Counties of Ontario, Victoria and York, exclusive of Toronto, and the District of Muskoka.
14. Counties of Northumberland, Peterborough, Durham and Haliburton.
15. Counties of Prince Edward, Hastings and Lennox.
16. Counties of Frontenac, Addington and Renfrew.
17. Counties of Leeds, Grenville, Dundas and Stormont.
18. Counties of Carleton, Russell, Prescott, Glengarry and Lanark.

CHAPTER 78.

An Act to amend The Pharmacy Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Rev. Stat.
c. 179, s. 10
amended.

1. Section 10 of *The Pharmacy Act* is amended by adding as subsection 3 thereto the following:

Appointment
of representa-
tive to attend
Inter-Pro-
vincial
Associations

- (3) The Council of the said College may appoint, from time to time, one or more representatives to attend meetings of Inter-Provincial or other Pharmaceutical Associations, and the said Council may pay out of the College funds to any one or more of said Pharmaceutical Associations, such sums as it may deem proper, and the payment of all such sums heretofore made by the said Council is hereby ratified and confirmed.
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CHAPTER 79.

An Act to revise and amend the Chartered
Accountants Act.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. "The Institute of Chartered Accountants of Ontario," ^{General powers.}
incorporated by an Act passed in the forty-sixth year of the
reign of Her late Majesty Queen Victoria, and Chaptered
62, is hereby continued as a body politic and corporate, with
perpetual succession and a common seal, and shall, subject
to the provisions of this section, be capable in law, by its
corporate name, to take, purchase, hold, sell, and dispose of,
all and any goods, chattels, lands, tenements and heredita-
ments and any real or personal property whatsoever, and
any interest therein, which may from time to time be neces-
sary or convenient for the purposes of the Institute; but the
Institute shall not engage in, trade, or so deal in lands, or
any interest therein, but may receive, manage and invest
voluntary contributions and donations from members or
others as a benevolent fund for the benefit of needy or non-
prosperous members or their families, including families of
deceased members; provided always that the said Institute
shall only have power to acquire and hold such real estate
as shall not at any one time exceed an annual value of three
thousand dollars, and shall have and hold such real estate
only so far as the same shall be necessary for the purposes
of the said Institute within Ontario.

2. The objects of the Institute shall be to promote and ^{Objects.}
increase, by all lawful ways and means, the knowledge, skill
and proficiency of its members, in all things relating to the
business or profession of an accountant, and to that end to
establish classes, lectures and examinations, and prescribe
such tests of competency, fitness and moral character as may
be thought expedient to qualify for admission to membership.

Annual
meeting.

3. An annual meeting shall be held for the election of the Council of the Institute, and for such other business as may be brought before such meeting, at such time and place and under such regulations and notices, as by the by-laws of the Institute shall be determined; and in default of such election being held at the proper time the existing Council shall continue to act until their successors shall be duly appointed.

Council.

4.—(1) The Council of the Institute shall consist of fifteen members, of whom not less than two-thirds shall be public accountants, residing and practising within the Province.

Nominations
for council.

(2) Nominations of candidates for election to the Council must be in writing, signed by two members of the Institute, and must be lodged with the Secretary at least fourteen days before the date of the annual meeting.

Election of
council.

(3) A voting paper containing the names, alphabetically arranged, of the persons nominated for election to the Council shall be sent by mail to each member in good standing at least ten days before the date of the annual meeting, and the Council shall be elected by means of such voting papers, whether the members voting be present at or absent from the annual meeting.

Vacancies.

(4) All vacancies which may occur in the Council, by death or otherwise, in the interval between two annual meetings, may be filled by the Council.

Officers.

5. The Council shall elect from among its number a President, two Vice-Presidents, a Secretary and a Treasurer (the same person being eligible for both the last mentioned offices), and shall appoint a Registrar and such other officers as may be provided for by the by-laws.

Fees.

6. The Council may fix an entrance and annual fee or subscription to be paid by all members, and may vary the amount from time to time, and no member shall be personally liable for any debt of the Institute beyond the amount of his unpaid fees or subscriptions as aforesaid.

By-laws.

7.—(1) The council may make by-laws for carrying out its objects, and may alter and vary the same from time to time, but no such by-laws or any amendments thereto shall have force or take effect until they shall have been approved at the annual meeting of the Institute, or at a special general meeting called to consider the same.

(2) Any such by-law shall be liable to be cancelled and annulled by an order of the Lieutenant-Governor in Council.

8. The Council shall have authority from time to time ^{Examinations.} to prescribe a curriculum of studies to be pursued by the students, to determine the fitness and moral character of persons applying to be examined, to prescribe the subjects upon which candidates for certificates of competency shall be examined, to fix standards of skill and competency, to establish a scale of fees to be paid by persons applying for examination, to appoint examiners, define their duties and fix their remuneration, and to make such rules and regulations (not contrary to the provisions of this Act or the by-laws of the Institute) in respect to examinations as may be expedient. The Council shall hold examinations at least once in each year.

9. The Council shall by by-law prescribe the conditions ^{Equivalent examinations.} upon which persons who have passed the examinations of other corporate bodies having the same or similar objects, may be admitted as members of the Institute, and these conditions shall be reasonable and subject to amendment by the Lieutenant-Governor in Council.

10. The Institute may establish lectures and classes of ^{Lectures.} students in accounts, and may, subject to the approval of the Lieutenant-Governor in Council, make arrangements with any University or College in Ontario for the attendance of students in accounts at such lectures or classes in any such University or College as may come within the course of subjects prescribed by the rules, by-laws and regulations of the Institute, and may, subject as aforesaid, agree with any such University or College for the use of any library or museum or property belonging to or under the control of such University or College, and may affiliate with any such University or College, and may enter into all arrangements necessary for such end, upon such terms as may be agreed upon.

11. The membership of the Institute of Chartered ^{Membership.} Accountants of Ontario shall consist of two classes, namely, Fellows and Associates. Every member of the Institute shall have the right during the continuance of his membership, to use the designation "Chartered Accountant," and may use after his name, in the case of a Fellow the initials "F.C.A.," signifying "Fellow of the Chartered Accountants," and in the case of an Associate the initials "A.C.A.," signifying "Associate of the Chartered Accountants."

12. Persons who shall have rendered conspicuous services ^{Honorary membership.} to the Institute, either in the advancement of its educational

tional objects or its general welfare or by material contributions to the library or other funds of the Institute, may by the unanimous vote of the members present at any meeting of the members, be elected to honorary membership of the Institute. Honorary membership shall not confer upon any person elected thereto the right to use the designation "Chartered Accountant" or to be elected to the Council or to vote.

Penalties.

13.—(1) No person shall be entitled to take or use the designation of "Chartered Accountant" or the initials "F.C.A.," "A.C.A.," or "C.A.," either alone or in combination with any other words, or any name, title or description, implying that he is a Chartered Accountant, or any name, title, initials or description implying that he is a certified accountant or an incorporated accountant, unless he is a member of the Institute in good standing and registered as such. Any person using a name, title, initials or description contrary to the provisions of this section shall be liable on summary conviction to a fine not exceeding \$25 for each offence.

(2) Subsection 1 shall not apply to those persons who, being members in good standing of the Dominion Association of Chartered Accountants on the 16th day of December, 1909, were on the said date entitled to membership in the Institute or to apply therefor.

Membership register.

14.—(1) The Council shall cause to be kept by the Secretary or Registrar, a book or register, in which shall be entered in alphabetical order the names of all members in good standing; and those members only whose names are inscribed in the book or register aforesaid shall be deemed entitled to the privilege of membership in the Institute; and such book or register shall at all times be subject to inspection by any person free of charge.

(2) Such register, or a copy of the same duly certified by the Secretary or Registrar, shall be *prima facie* evidence in all courts and before all persons that the persons therein specified are members of the Institute in good standing, and the absence of the name of any person from such book shall be *prima facie* evidence that such person is not a member of the Institute.

Expulsions.

15. The Institute may by by-law provide for the suspension or expulsion, on complaint and after due enquiry, of any member for misconduct or for violation of the rules or by-laws of the Institute.

Rights of certain persons not affected.

16. Nothing in this Act shall affect or interfere with the right of any person not a member of the Institute to practise as an accountant in the Province of Ontario, nor with the right of any person, not residing or having an office within this Province, to use any designation as accountant.

CHAPTER 80.

An Act to amend The Ontario Companies Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 3 of *The Ontario Companies Act* is amended by adding thereto the following subsection:—

7 Edw. VII.,
c. 34, s. 3,
amended.

- (2) Notwithstanding anything in this Act, the Provincial Secretary may, under the Seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor, but not including those conferred on the Lieutenant-Governor in Council.

Provincial
Secretary
may issue
charters, etc.

2. Section 48 of the said Act is amended by adding thereto the following subsection:—

7 Edw. VII.,
c. 34, s. 43,
amended.

- (2) Should shares in the capital stock of the company be issued in pounds sterling or francs, then shares previously issued in Canadian currency may at the option of the holder be exchanged for shares in pounds sterling or francs, as the case may be. For the purpose of dividends, distribution of assets, voting and all other matters relating to the amount of shares issued in pounds sterling or francs, one pound sterling or twenty-five francs shall be calculated as five dollars. Shares herein shall include share warrants, where the company is authorized to issue the same.

Shares issued
in pounds
sterling or
francs.

3. Section 1 shall come into force and take effect on, from and after the 1st day of May, 1910.

CHAPTER 81.

An Act to amend the Ontario Railway Act, 1906.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

6 Edw. VII.,
c. 80.

1. This Act may be cited as "*The Ontario Railway Amendment Act, 1910*," and shall be read with and as part of *The Ontario Railway Act, 1906*.

Construction and operation of street railway by municipality where corporation may grant right to a company.

2. Where under the provisions of an agreement between a municipal corporation and a street railway company or any person from whom a street railway company has derived its title, the corporation has become or shall hereafter become entitled to grant to another company or person the right to construct and operate a street railway on any street or part of a street upon which such first mentioned company was authorized or empowered to construct or operate its railway or any part of it, by reason of the failure of such company to construct and operate or to operate its railway thereon, such corporation, instead of granting such right to another company or person, may itself construct, operate and maintain a railway thereon either as a separate and distinct line of railway or as part of any other railway which such corporation owns or operates or has power to construct or operate.

Railway not to be constructed on highway without sanction of Board

3.—(1) A railway company shall not, without having first obtained the permission and approval of the Ontario Railway and Municipal Board, begin the construction of its railway or of any extension of it upon any highway or part of a highway upon which it has authority to construct or extend its railway, and the Board shall have power to withhold its permission and approval whenever it is of opinion that it has not been made to appear that the construction or

extension

extension upon such highway or part of a highway is necessary or convenient for the public service, or whenever in the opinion of the Board it is not in the public interest that the railway should be constructed or extended upon such highway or part of a highway.

(2) This section shall apply to a street railway. /

Application to
street rail-
way.

4. The proviso to subsection 1 of section 569 of *The Consolidated Municipal Act, 1903*, is hereby repealed and the following substituted for it:—

3 Edw. VII.,
c. 19, s. 569,
subs. 1,
amended.

Provided that the powers conferred by this section shall not be exercised in respect of any street or part of a street in, along, or upon which a street railway company is entitled under an agreement with the municipality to construct and operate its railway, so long as such right shall continue to exist, and any question or dispute as to whether a street railway company is so entitled, shall be determined by the Ontario Railway and Municipal Board.

5. Section 2 shall not come into force until a day to be named by the Lieutenant-Governor by Proclamation.

Proclamation
bringing sec. 2
into effect.

CHAPTER 82.

An Act to amend The Ontario Railway and Municipal Board Act, 1906.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

6 Edw. VII.,
c. 31, s. 25
amended.
Payment of
fees of
sheriff, etc.

1. Section 25 of *The Ontario Railway and Municipal Board Act, 1906*, is amended by adding thereto the following words, “and such fees shall be charged as expenses of the administration of justice.”

CHAPTER 83.

An Act to amend The Ontario Railway and Municipal Board Act, 1906.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Railway and Municipal Board Amendment Act, 1910.*" Short title.

2. Whenever the Board is of opinion after hearing had upon its own motion or after complaint that the regulations, practices, equipment, appliances or service of any railway company in respect to transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, the Board shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property and so fix and prescribe the same by order to be served upon the railway company to be bound thereby, and it shall be the duty of the railway company to observe and obey every requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees. Jurisdiction of Board over railway.

3. Whenever in the opinion of the Board repairs or improvements to or changes in any tracks, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company in or in connection with the transportation of passengers, freight or property ought reasonably to be made thereto in order to promote the security or convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, after a hearing had either upon its own motion or Repairs or improvements in equipment. after

after complaint, shall make and serve an order directing such repairs, improvements, changes, or additions to be made within a reasonable time and in a manner to be specified therein, and every railway company shall make all repairs, improvements, changes and additions required of it by any such order within the time and in the manner specified in the order.

Jurisdiction
of Board
over street
railways.

4. Whenever in the opinion of the Board a street railway company

- (a) Does not run cars enough or possess or operate motive power enough reasonably to accommodate the passengers transported or offered for transportation to it, or
- (b) Does not run its cars with sufficient frequency or at a reasonably proper time, or
- (c) Does not run any car upon a reasonable time schedule for the run, or
- (d) Does not provide reasonable routes and services for the accommodation of the public, or
- (e) Does not provide for stopping its cars to take on and discharge its passengers at convenient points or at a sufficient number of points, or
- (f) Does not sufficiently or properly heat and light any of its cars or keep the same clean, or
- (g) Operates any car which is not in proper repair and condition,

the Board shall have power after a hearing had either on its own motion or after complaint to make an order directing the company to increase the number of its cars or its motive power, to change the time for starting any car, to change the time schedule for the run of any car, to require the company to run cars and provide a sufficient service upon any route that the Board may deem necessary for the accommodation of the public, to sufficiently light and heat its cars and keep them clean, to stop its cars to take on and discharge passengers at such points as the Board may deem proper, and to make any other order which the Board may deem necessary to accommodate and transport the passengers transported or offered for transportation, and the company shall be bound to obey every such order according to the exigency thereof.

Powers conferred to be in addition to present powers.

5. The powers conferred by this Act upon the Board shall be in addition to the powers now possessed by it.

6. The Board shall have the like power and authority for the enforcement of any order made by it under the provisions of this Act as it now possesses for the enforcement of its orders, and especially the power and authority conferred by sections 20 and 63 of *The Ontario Railway and Municipal Board Act, 1906*. Enforcement of orders.

7. This Act shall be read with and as part of *The Ontario Railway and Municipal Board Act, 1906*, and sections 2, 3, 5 and 6 of this Act shall apply to street railways as well as other railways. Act incorporated with 6 Edw. VII., c. 31.

8. Section 65 of the Act mentioned in the next preceding section is hereby repealed. 6 Edw. VII., c. 81, s. 65 repealed.

9. The provisions of this Act shall apply notwithstanding any agreement between the company and a municipal corporation or the provisions of any general or special Act relating to the agreement or to the company. Application of Act notwithstanding agreement or special Act.

10. The powers conferred by this Act in the case of street railways wholly or partly in cities having a population of one hundred thousand or over shall include, but in the case of other street railways shall not include, the power to require the company owning or operating the street railway to construct, maintain and operate additional lines and extensions of existing lines, in, along and upon any street or highway or part of a street or highway upon which the company has authority to construct, maintain and operate its railway. Powers to require street railway companies in cities of 100,000 or over to construct, maintain and operate additional lines.

CHAPTER 84.

An Act respecting Telephone Systems.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as *The Ontario Telephone Act, 1910.*

**Interpreta-
tion.** **2.** In this Act,

**"Special
Act."** (a) "The Special Act" shall mean any Act of the Legislature of Ontario authorizing the construction of a telephone system or line, and with which this Act is incorporated, and shall include a charter of incorporation of a telephone company under the great seal of the Province of Ontario; or supplementary letters patent relating to such a company.

"Board." (b) "Board" shall mean the Ontario Railway and Municipal Board.

**"Company
or Person."** (c) "Company or Person" shall mean any Company, Corporation, Municipal Corporation, Association, individual or aggregation of individuals owning, controlling, or operating a telephone system or lines within the Province of Ontario, and not within the legislative authority of the Parliament of Canada.

**"Telephone
toll."** (d) "Telephone Toll" shall mean any toll, rate, rental, or charge to be charged to the public or any person for the transmission of telephone messages or for the use of telephone instruments, circuits, or for the supply of telephone service.

**Powers of
Board.** **3.** The Board shall have jurisdiction to enquire into, hear and determine any application by or on behalf of any party interested,

(1)

(1) Complaining that any Company or person has failed to do any act, matter or thing required to be done by *The Ontario Railway Act, 1906*, "*The Act respecting certain Railways and other Corporations, 1907*," "*The Local Municipal Telephone Systems Act, 1908*," or this Act, or the Special Act, or by any regulation, order or direction made thereunder by the Lieutenant-Governor in Council, the Board, or any other authority, or that any company or person has done or is doing any act, matter or thing contrary to or in violation of the said Acts or any of them or any such regulation, order or direction;

(2) Requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to make or give.

4. The Board may order or require any company or person to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as it is not inconsistent with the Acts hereinbefore mentioned, or any of them, or this Act, or the Special Act, any thing, matter, or act which such company or person is or may be required or authorized to do under the said Acts, or any of them, or this Act, or the Special Act, and may forbid the doing or continuing of any act, matter or thing, which is contrary to the said Acts, or any of them, or this Act, or the Special Act; and shall for the purpose of this Act have full jurisdiction to hear and determine all matters whether of law or of fact.

Power of Board to compel performance of duties.

5.—(1) The Board may make orders and regulations with respect to any matter, act or thing which by any of the Acts hereinbefore mentioned, or this Act, or the Special Act, is sanctioned or required to be done or prohibited, and generally for carrying the said Acts, and this Act and the Special Act into effect.

Orders and regulations of Board.

(2) The Board may by regulations prescribe penalties when not prescribed by any of the Acts hereinbefore mentioned or this Act, or the Special Act, to which every company or person which or who offends against any regulation made under this section shall be liable, provided that no such penalty shall exceed one hundred dollars.

(3) The imposition of any such penalty shall not lessen or affect any other liability which any company or person may have incurred.

6.—(1) Notwithstanding anything in any Act heretofore passed by the Legislature of Ontario, all telephone tolls to

Tolls.

be charged by any company or person shall be subject to the approval of the Board.

(2) Every company or person shall file with the Board tariffs of any telephone tolls to be charged, and such tariffs shall be in such form, size, and style, and give such information, particulars and details as the Board from time to time by regulation or in any particular case prescribes, and no company or person shall charge any telephone toll in respect of which there is default in such filing or which is disallowed by the Board. Provided that any company or person may without such filing and approval, for a period of six months after this Act comes into force, or for such further period as the Board allows, charge such telephone tolls as such company or person was previously authorized by law to charge, unless in the meantime the Board in the case of any company or person disallows any of such telephone tolls.

Publication
of tolls.

7. The Board may, by regulation or otherwise, determine and prescribe the manner and form in which any tariff or tariffs of telephone tolls shall be published or kept open for public inspection.

Agreements
for connec-
tions, joint
operation, etc.

8. Subject to the approval of the Board every company or person shall have power to enter into any agreement or agreements with any other company or person for the purpose of providing for connection, intercommunication, joint operation, reciprocal use, or transmission of business as between the respective systems controlled, owned or operated by such companies or persons, and may make such arrangements as shall be deemed advisable for the proper apportionment of expenditures and commissions, the division of receipts and profits, or such other adjustments as may be necessary under any such agreement.

Power of
Board to com-
pel intercom-
munication
and reciprocal
use, etc.

9. Wherever the telephone systems or lines of any company or person are located in territory adjacent to each other and in the event of any company or person owning, controlling, or operating one or more of the said telephone systems, refusing or neglecting to enter into an agreement for any or all of the purposes mentioned in the next preceding section, the Board shall issue an order providing for such connection, intercommunication, joint operation, reciprocal use, or transmission of business upon such terms and conditions as it may deem advisable.

Agreements
to be approv-
ed of by
Board.

10. All contracts, agreements and arrangements between any company or person, and any other company or person having authority to construct or operate a telephone system or line, whether such authority is derived from the Legislature of Ontario or otherwise, for the regulation and interchange of telephone messages or service passing to and from their

their respective telephone systems and lines, or for the division or apportionment of telephone tolls, or generally in relation to the management, working or operation of their respective telephone systems or lines operated in connection with them or either of them, shall be subject to the approval of the Board, and shall be submitted to and approved by the Board before such contract, agreement or arrangement shall have any force or effect.

11. No company or person shall enter into any contract, agreement, or arrangement with any other company or person having authority to construct or operate a telephone system, or line, whether such authority is derived from the Legislature or otherwise, which has or is designed to have the effect of increasing the cost of telephone service to the public or of restricting competition in the supply of such service unless the same is just and reasonable and until such contract, agreement or arrangement has been submitted to and received the assent of the Board.

Agreements restricting competition, etc.

12. In case any person makes application to any company or person for telephone service it shall be the duty of such company or person to furnish such person within a reasonable period of time with such telephone service upon his complying with such terms and conditions as may be directed by the Board.

Telephone service to be furnished on request.
Proviso.

13.—(1) The several provisions of *The Ontario Railway and Municipal Board Act, 1906*, with respect to the jurisdiction of the Board, practice and procedure upon applications to the Board, in so far as reasonably applicable and not inconsistent with this Act, shall apply to the jurisdiction of the Board and the exercise thereof, created and authorized by this Act, and for the purpose of carrying into effect the provisions of this Act according to their true intent and meaning and shall apply generally to companies and persons within the purview of this Act.

Application of Act of Edw. VII, c. 81

(2) In and for the purposes of such application the expression "company" shall mean a "company" or "person" as above defined.

14. Except when otherwise expressly provided, notwithstanding anything in this Act, or the said Act, or in any agreement contained in any proceeding under this Act, the Board shall have the power to construe and determine the proper meaning of, but not to alter or vary any agreement between a Municipal Corporation and a company, or between two or more companies or persons, and the decision of the Board on any question of fact shall be final.

Power of Board to construe agreements.

CHAPTER 85.

The Municipal Amendment Act, 1910.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

3 Edw. VII.,
c. 19, s. 70,
amended. **1.** Section 70 of *The Consolidated Municipal Act, 1903*, is amended by adding the following subsection:—

Repeal of
by-law.

(2) At any time after two annual elections have been held under a by-law passed under this section, the Council may, with the assent of a majority of those voting of the electors qualified to vote at municipal elections, repeal the said by-law.

3 Edw. VII.,
c. 19, s. 80,
subs. 1
amended. **2.** Clause (a) of subsection 1, of section 80 of *The Consolidated Municipal Act, 1903*, as enacted by section 3 of the Act passed in the sixth year of His Majesty's reign, Chaptered 34, is amended by adding thereto the following words:

“Provided, however, this clause shall not apply to a member of any such Board, who, at least ten days prior to the day of nomination for such council, has filed his resignation with the Secretary of the Board of which he is a member; and the filing of such resignation shall render the seat of such member vacant.”

3 Edw. VII.
c. 19,
amended. **3.** *The Consolidated Municipal Act, 1903*, is amended by adding the following section:

Bribery sections, etc., to apply to voting on any by-law or question.

246a. All the provisions of this Act prohibiting the doing of any act or defining any offence against this Act, and imposing penalties therefor applicable to the election of members of municipal

councils

councils shall apply *mutatis mutandis* to the voting upon any by-law or question submitted to the electors by a municipal council whether the submission of such by-law or question is optional with or compulsory upon the Council.

4. Section 340 of *The Consolidated Municipal Act, 1903*, ^{3 Edw. VII., c. 19, s. 340,} is amended by adding thereto the following subsection: ^{amended.}

- (2) When more than one by-law for the creation of debts is submitted at the same time to a vote of the qualified ratepayers, they may be all placed upon one ballot. ^{One ballot for several by-laws.}

5. Subsection 3 of section 384 of *The Consolidated Municipal Act, 1903*, as amended by section 11 of the Act passed in the 9th year of His Majesty's reign, Chaptered 73, is repealed, and the following subsections substituted therefor: ^{3 Edw VII., c. 19, s. 384, subs. 3 repealed.}

- (3) The debentures, save as hereinafter provided, shall be issued within two years after the passing of the by-law, and shall all bear the same date, and may notwithstanding any provision in the By-law bear any date within such two years; provided that in any case where, because of the proposed expenditure upon the objects for which the debt is contracted, being estimated to extend over a series of years, and it being undesirable to have large portions of the moneys in hand unused and uninvested, or for other like or sufficient causes set out in the by-law, it would, in the opinion of the Municipal Council, be to the advantage of the Municipality to issue the debentures in instalments, the by-law may provide that the debentures may be issued in instalments of such amounts, and at such times, as the exigency of the case demands, but so that the first instalment shall be issued within two years, and all the debentures within five years after the passing of the by-law, and in such case the debentures may be issued according to the provisions of the by-law. ^{Debentures, when to be dated and issued.}

Provided further that the "The Ontario Railway and Municipal Board" may in the case of any by-law heretofore passed or hereafter to be passed upon the application of the Council or of any person entitled to receive any or all of the debentures to be issued under the by-law, or the

proceeds

proceeds of the sale thereof, or to payment of the liabilities, or any of them intended to be created by such by-law, extend the time for issuing the debentures beyond such period of two years, and may also extend the time provided by any such by-law for the issue of any instalment of the debentures beyond the time authorized by such by-law for issuing the same, and such extension of time may be made, although the application for the same is not made until after the expiration of such period of two years or until after the expiration of the time provided by the by-law for the issue of such instalment, and in such case the debentures may be issued within such extended time.

Orders of
Ontario
Railway and
Municipal
Board
confirmed

(3a) All orders heretofore made by "The Ontario Railway and Municipal Board" extending or purporting to extend the time for issuing the debentures authorized by any by-law heretofore passed, and the debentures issued or to be issued under or pursuant to such orders or any of them are hereby validated and confirmed and declared to be binding upon the Municipality which issued or may hereafter issue such debentures. Provided however that this subsection shall not come into force or take effect until so declared by Proclamation of the Lieutenant-Governor in Council.

Proviso.

3 Edw. VII.
c. 19, s.
388 b
amended.

6. Section 388b of *The Consolidated Municipal Act, 1903*, as enacted by section 12 of *The Municipal Amendment Act, 1909*, is amended by striking out the word "City" in the eighth line and inserting in lieu thereof the word "Municipality," and by striking out all the words in the said section after the word "Boards" in the seventeenth line, and by changing the number of the said section from "388b" to "388c."

3 Edw. VII.,
c. 19, s. 537
amended.

7. Section 537 of *The Consolidated Municipal Act, 1903*, is amended by adding the following as paragraph 8:—

BY THE COUNCIL OF CITIES.

Commission-
er of Indus-
tries.

8. For the appointment of a Commissioner of Industries whose duty it shall be to bring to the notice of manufacturers and others the advantages of the City as a location for industrial enterprises, summer resorts, residential, educational and other purposes, and for prescribing the duties of such officer and for fixing his salary or other remuneration.

8. Paragraph 1 of section 538 of *The Consolidated Municipal Act, 1903*, is amended by striking out the figure "\$3" in the third line and substituting therefor the figure "\$5."

3 Edw. VII.,
c. 19, s. 538,
par. 1,
amended.

Remunera-
tion to
councillors
and commit-
tee men.

9. Paragraph 3 of section 540 of *The Consolidated Municipal Act, 1903*, is repealed.

3 Edw. VII.,
c. 19, s. 540,
p. 3 re-
pealed.

10. Subsection 17e of section 542 of *The Consolidated Municipal Act, 1903*, is amended by inserting the words "preventing and" after the word "for" where it first occurs in the first line thereof.

3 Edw. VII.,
c. 19, s. 542,
subsec. 17e
amended.

Preventing,
keeping and
storing
gasoline.

11. Subsection 2, of section 552, of *The Consolidated Municipal Act, 1903*, is amended by striking out the figures "\$2,000" in the fifteenth line and substituting therefor the figures "\$5,000."

3 Edw. VII.,
c. 19, s. 552,
subs. 2,
amended.

Borrowing
money for
scavenging
system with-
out assent of
ratepayers.

12. *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following as section 606a:

3 Edw. VII.,
c. 19,
amended.

606a. Where lands anneexd to any city or town under section 24 abut on any road or highway, the city or town to which such lands are annexed, shall be jointly liable with the adjacent township or townships for the maintenance and repair of such road or highway.

Joint main-
tenance of
road where
lands annexed
to city or
town.

13. Section 617 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following subsection:—

3 Edw. VII.,
c. 19, amend-
ed.

(5) All boundary lines, and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more municipalities in a District without County organization shall be constructed, erected and maintained by the councils of such municipalities; and in case the councils fail to agree as to the proportion of the expense to be borne by each Municipality, the proportion shall be determined by arbitration under the provisions of this Act, and the award made by the arbitrators shall be final.

Construc-
tion and
maintenance
of boundary
lines and
bridges.

14. Section 617a of *The Consolidated Municipal Act, 1903*, as amended by section 32 of the Act passed in the fifth year of His Majesty's reign, Chaptered 22, and by section

3 Edw. VII.,
c. 19, s. 617a
amended.

23 of the Act passed in the seventh year of His Majesty's reign, Chaptered 40, is further amended by adding the following subsection:

New application to County Judge after expiration of five years.

(6a) After the expiration of five years from an order of the Judge declaring the bridge not to be a county bridge, the town or township may, in the manner above provided, make another application to the Judge, who may make such order under subsection 5 as he may deem proper without regard to any former order made by him.

3 Edw. VII., c. 19, s. 625 amended.

15. Section 625 of *The Consolidated Municipal Act, 1903*, and the subsections thereof are amended by striking out the words "Townships" and "Township" wherever the same appear therein, and substituting the word "Municipalities" or "Municipality" in lieu thereof, except in the 4th line of subsection 4 of said section where the word "Township" shall be struck out between the words "said" and "Municipalities" therein.

Agreements between municipalities as to maintenance of boundary roads.

5 Edw. VII., c. 22, s. 33 repealed.

16. Section 33 of *The Municipal Amendment Act, 1905*, is repealed.

3 Edw. VII., c. 19, s. 687, subs. 1, amended. Construction of waterworks mains as local improvements.

17. Subsection 1 of section 687 of *The Consolidated Municipal Act, 1903*, is amended by adding at the end thereof of "whether owned by the Municipality or by any other person."

3 Edw. VII., c. 19, s. 740, amended.

18. Section 740 of *The Consolidated Municipal Act, 1903*, as amended by section 37 of the Act passed in the seventh year of His Majesty's reign Chaptered 40, is amended by striking out the words "Judge of the County" in the third line of the amendment made by the said section 37 and substituting therefor the words "by the Judge of the County Court of the County in which the Police Village or the larger or largest part is situate."

3 Edw. VII., c. 19, amended.

19. *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following section as 740a thereof:—

Commutation of statute labour in police villages.

740a. The Council of a Township in which a Police Village or part thereof is situate, when required by the Trustees of such Police Village, shall pass a by-law, commuting all the statute labour in the Police Village or in that part situate in the Township according to the ratio of statute labour in vogue in such Township, to a money payment of such sum for each day's

statute labour not exceeding the sum of one dollar per day, as the said Trustees may deem sufficient, and the said Council shall place annually to the credit of the said Trustees, in the books of the Treasurer of the said Township, the whole amount of the said statute labour, so commuted, to be expended by the said Trustees for the purposes of the Police Village.

20. Section 742 of *The Consolidated Municipal Act, 1903*, is hereby amended by adding after the word "afore-said" in the fifth line thereof the words "and to the extent of such other sums as the said Council or Councils is or are required by the provisions of this Act to place to the credit of the Trustees of the Police Village, in the books of the said Treasurer or Treasurers."^{3 Edw. VII., s. 742, c. 19, amended. Payment of orders given by police village trustees.}

21. Subsection 1 of section 746b of *The Consolidated Municipal Act, 1903*, is amended by adding after the word "Act" in the fifth line, the words "and for preventing or regulating and licensing bowling alleys."^{9 Edw. VII., c. 19, s. 746b, amended.}

22. Section 583 of *The Consolidated Municipal Act, 1903*, is amended by striking out paragraph 23 and the four lines immediately preceding, and clauses (a) to (f) therein, and inserting in lieu thereof the following:—^{3 Edw. VII., c. 19, s. 583 amended.}

By the Councils of cities and towns:

23. For licensing and regulating milk vendors, and for providing for the inspection of the premises of the licensee and of any other premises from which the milk supplied by the licensee is obtained, whether the premises of such licensee or such other premises are situate within the limits of the municipality or elsewhere, and for revoking and cancelling the license of any milk vendor where it is found upon inspection that the premises are not maintained in a suitable cleanly and sanitary condition, or that the animals from which the milk is obtained are not properly fed and cared for.^{Regulating and licensing milk vendors.}

CHAPTER 86.

An Act to amend The Ontario Municipal
Securities Act, 1908.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

8 Edw. VII.,
c. 51, s. 3,
subsec. 1
amended

1. Subsection 1 of section 3 of *The Ontario Municipal Securities Act, 1908*, is amended by inserting after the word "By-law" in the 8th line, the words "or any person entitled to receive any or all of the debentures issued or to be issued under the by-law, or the proceeds of the sale thereof, or to payment of the liabilities or any of them intended to be created by such By-law."

CHAPTER 87.

An Act to amend the Act respecting certain Municipal By-laws and Agreements.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 1 of the Act passed in the 9th year of His Majesty's reign, Chaptered 75, intituled *An Act respecting certain Municipal By-laws and Agreements*, is amended by adding the following:

9 Edw. VII.,
c. 75, s. 1
amended.

"Street" shall include a highway and a lane.

Interpreta-
tion.
"Street."
"Franchise."

"Franchise" shall include any right to which this Act applies.

2. Clause (b) of section 3 of the said Act is amended by adding the words "or across" after the word "along" in the tenth line of the said clause.

9 Edw. VII.,
c. 75, s. 3,
cl. (b)
amended.

3. Section 3 of the said Act is amended by adding thereto the following clause;

9 Edw. VII.,
c. 75, s. 3
amended.

(e) A By-law of a county or township, if the by-law is approved by the Lieutenant-Governor in Council.

Exemptions
from Act.

4. The said Act is also amended by adding thereto the following section;

6. This Act shall apply to the renewal or extension of an existing franchise.

Application
of Act to
renewals and
extensions.

CHAPTER 88.

An Act to amend The Assessment Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

4 Edw. VII.,
c. 23, s. 5
amended.

1.—(1) Paragraph 3 of section 5 of *The Assessment Act* is amended by striking out the words “every college” in the third line, and the words “or any incorporated seminary of learning” in the fourth line.

(2) The said section is further amended by adding the following as paragraph 3a:—

Seminaries of
learning.

3a. The buildings and grounds of, and attached to, or otherwise bona fide, used in connection with and for the purposes of every seminary of learning maintained for philanthropic, religious, or educational purposes, the whole profits from which are devoted or applied to such purposes only, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary.

Foundations,
when
exempt.

(3) Paragraph 16 of section 5 of the said Act is amended by inserting after the word “purposes” in the second line the words “including the foundations on which the same rest.”

4 Edw. VII.,
c. 23, s. 5,
par. 19
amended.

Exemption on
personal
earnings.

2. Paragraph 19 of section 5 of the said Act as enacted by section 1 of the Act passed in the 6th year of His Majesty's reign, Chaptered 36, as amended by section 4 of the Act passed in the 8th year of His Majesty's reign, Chaptered 50, is further amended by striking out the figures \$1,000 in the fourth line, and substituting therefor the figures \$1,200, and by striking out the figures \$700 in the 6th line and substituting therefor the figures \$900.

3. Clause (c) of subsection 1 of section 10 of the said Act is amended by striking out the words "where such land is occupied or used mainly for the purpose of its business" in the 6th, 7th and 8th lines of the said clause. 4 Edw. VII., c. 23, s. 10, subs. 1 amended.

4.—(1) Clause (e) of subsection 1 of section 10 of the said Act is amended by striking out the words "or of a club in which meals or spirituous or fermented liquors are sold or furnished" in the 9th and 10th lines. 4 Edw. VII., c. 23, s. 10, subs. 1 cl. (e) amended.

(2) The said section 10 is further amended by adding the following subsection after subsection 1:— 4 Edw. VII., c. 23, s. 10 amended.

(1a) Every proprietary or other club in which meals or spirituous or fermented liquors are furnished, whether to members or others, shall be liable to a business assessment for a sum equal to 25 per cent. of the assessed value of the land occupied or used for the purposes of the club. Clubs.

5.—(1) Clause (e) of subsection 1 of section 10 of the said Act is amended by adding after the word "publisher" in the 9th line the words "except the publisher of a newspaper." 4 Edw. VII., c. 23, s. 10, subs. 1, cl. (e) amended.

(2) The said subsection 1 is amended by adding the following clause: 4 Edw. VII., c. 23, s. 10, subs. 1 amended.

(ff) Every person carrying on business as the publisher of a newspaper in a city, for a sum equal to 35 per cent., and in any other municipality for a sum equal to 25 per cent. of the said assessed value. Publishers of newspapers.

6.—(1) Subsection 1 of section 10 of the said Act is amended by adding the following clause: 4 Edw. VII., c. 23, s. 10, subs. 1 amended.

(gg) Every person carrying on the business of a flour miller in a mill producing on an average less than 50 barrels a day, for a sum equal to 35 per cent. of the said assessed value. Millers.

(2) Clause (d) of the said subsection 1 is amended by adding at the beginning the words "Subject to the provisions of Clause (gg)." 4 Edw. VII., c. 23, s. 10, subs. 1 cl. (d) amended.

7.—(1) Section 10a of the said Act, as enacted by section 1 of the Act passed in the 7th year of His Majesty's reign, Chaptered 41, is repealed. 4 Edw. VII., c. 23, s. 10a repealed.

(2) The said Act is amended by adding the following as section 42a:— 4 Edw. VII., c. 23 amended.

Pipes, poles,
wires, etc.,
on boundary
lines.

42a. Except as provided by subsection 9 of section 14, where any structure, pipe, pole, wire, or other property is erected or placed upon, in, over, under, or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, the same shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together.

4 Edw. VII.,
c. 23, s. 10,
amended.

8. Section 10 of the said Act is amended by adding the following as subsection 7a.

Banks, trust
and loan
companies,
etc.

(7a) Banks, trust, loan, insurance, railway, telegraph, telephone and express companies and any company having rights or powers upon the highway, shall not be deemed to carry on a mercantile or manufacturing business within the meaning of subsection 7.

4 Edw. VII.,
c. 23, s. 24,
subs. 1
amended.

9.—(1) Subsection 1 of section 24 of the said Act is amended by striking out the words "within the Province" in the sixteenth line and substituting therefor the words "in Canada."

4 Edw. VII.,
c. 23, s. 24,
subs. 2
repealed.

(2) Subsection 2 of the said section is repealed and the following substituted therefor:—

Temporary
absence.

(2) A person may be resident in a municipality within the meaning of this Section notwithstanding occasional or temporary absence; or,

(a) Absence as a member of the permanent militia corps, enlisted for continuous service, or on service as a member of the active militia; or,

(b) Absence as a student in attendance at an institution of learning in the Dominion of Canada.

Such absence shall not disentitle him to be entered on the assessment roll as a voter.

4 Edw. VII.,
c. 23, s. 25,
subs. 1
repealed.

10.—(1) Subsection 1 of section 25 of the said Act is repealed and the following substituted therefor:—

Students

(1) No person shall be entitled to be marked or entered by the assessor in the assessment roll as a voter

voter under *The Ontario Election Act* in respect of residence in a municipality in which he is in attendance as a student at an institution of learning, if he has a place of residence in another municipality, and is entered or is entitled to be entered or could have been entered on the assessment roll thereof.

(2) Subsection 2 of section 25 of the said Act is amended by striking out the word "poor-house" in the 7th line and substituting therefor the words "house of refuge," and by striking out all the words in the said subsection after the word "industry" in the 8th line.

(3) Subsection 3 of section 25 of the said Act is repealed and the following substituted therefor:—

(3) Any person whose name is marked or entered on, or who is entitled to have his name marked or entered on the assessment roll for the municipality as a voter, shall have the right to complain to the Court of Revision to have his own name, or the name of any other person corrected in, entered on, or removed from the assessment roll, and the proceedings thereon, including the right of appeal from the Court of Revision, shall be the same as in the case of an appeal in respect of an assessment.

11. The said Act is amended by adding the following as section 25a:—

25a. No assessor or assessment commissioner for any city or town to which *The Manhood Suffrage Registration Act* applies, shall enter upon the assessment roll the name of any person who is not liable to assessment for taxes, and the letters "M. F." shall not be placed opposite the name of any person on the roll of any such city or town, unless such person is qualified to vote at municipal elections in such city or town, as well as at elections for the Assembly.

12. Clause (b) of subsection 8 of section 33 of the said Act is amended by striking out the figures "40" in the 6th line of the said clause, and substituting therefor the figures "41."

13. Section 36 of the said Act is repealed and the following substituted therefor:—

Assessment
of land.

36.—(1) Subject to the provisions of this section, land shall be assessed at its actual value.

Buildings.

(2) In assessing land having any buildings thereon, the value of the land and buildings shall be ascertained separately, and shall be set down separately in columns 13 and 14 of the assessment roll and the assessment shall be the sum of such values. The value of the buildings shall be the amount by which the value of the land is thereby increased.

Certain
buildings
and minerals
not assessable.

(3) The buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant, and, subject to subsection 7, the minerals in, on or under such land, shall not be assessable.

Minimum
assessment
of mineral
lands.

(4) In no case shall mineral land be assessed at less than the value of other land in the neighbourhood used exclusively for agricultural purposes.

Income from
mines.

(5) The income from a mine or mineral work shall be assessed by, and the tax leviable thereon shall be paid to the municipality in which such mine or mineral work is situate. Provided that the assessment on income from each oil or gas well operated at any time during the year shall be at least \$20.

Business
assessment.

(6) Every person occupying mineral land for the purpose of any business other than mining shall be liable to business assessment as provided by section 10.

Petroleum
Mineral
Rights.

(7) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in such lands have been or shall be reserved to the grantor such mineral rights shall be assessed at their actual value.

Tax on
income from
mines.

(8) Notwithstanding anything in this section contained, no income tax shall be payable to any municipality upon a mine or mineral work liable to taxation under section 6 of *The Supplementary Revenue Act, 1907*, in excess of one-half; in the case of the Town of Cobalt as at present constituted, and in excess of one-third, in the case of all other municipalities, of the tax payable in respect of annual profits from

such mine or mineral work under the provisions of the said section and amendments thereto.

14. Section 39 of the said Act is repealed and the following substituted therefor:—

⁴ Edw. VII.,
c. 23, s. 39
repealed.

- (1) Lands in a town or village held and used as a farm garden or nursery only, and in blocks of not less than five acres, by any one person, and not in immediate demand for building purposes, shall be assessed for the amount at which sales of such lands can be freely made, and where no sales can be reasonably expected during the current year, such lands shall be assessed at their value for farming, gardening or nursery purposes, with such percentage added thereto as the situation of such lands reasonably calls for. Farm lands, etc., in towns and villages.
- (2) Such lands though surveyed into building lots, if unsold as such, may be entered on the assessment roll as so many acres of the original block or lot, describing the same by the description of the block or by the number of the lot and concession of the township in which the same are situate, as the case may be. Assessment in block.
- (3) In such case the number and description of each lot comprised in each block shall be inserted in the assessment roll, and the provisions of section 127 shall apply. Number and description of lot.
- (4) Where such lands are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements of the character hereinafter mentioned in the municipality as other lands therein generally, the council of such town or village shall annually at least two months before striking the rate of taxation for the year, pass a by-law declaring what part of the said lands so held and used as farm lands only shall be exempt or partly exempt from taxation for the expenditure of the municipality incurred for water works, whether for domestic use or for fire protection or both, the making of sidewalks, the construction of sewers or the lighting and watering of the streets, regard being had in determining such exemption to no advantage, direct or indirect, to such lands arising from such improvements, or any of them. Exemption of farm lands in towns and villages from assessment for certain improvements.

Proviso.

- (a) Nothing in this subsection contained shall exempt or relieve any lands therein mentioned from the general rate for the payment of any debenture debt contracted before the 14th day of April, 1892, or renewed since the said date in whole or in part.

Persons claiming exemption to notify council.

- (5) Any person claiming such exemption in whole or in part shall notify the council of the municipality thereof within one month after the time fixed by law for the return of the assessment roll, and shall by some intelligible description indicate the land and quantity as nearly as may be in respect of which exemption is claimed, and such notice shall enure to the benefit of such person during succeeding years.

Appeal from by-law to County Judge

- (6) Any person complaining that the said by-law does not exempt or sufficiently exempt him or his said farm lands from taxation as aforesaid, may within 14 days after the passing thereof notify the clerk of the municipality of his intention to appeal against the provisions of such by-law or any of them to the Judge of the County Court who shall have full power to alter or vary any or all of the provisions of the said by-law and determine the matter of complaint in accordance with the spirit and intent of the provisions of this section.

Application to judge in case of repeal or neglect to pass by-law.

- (7) If the council refuses or neglects to pass a by-law under subsection 4, the person claiming the exemption may within 14 days after the expiration of the time fixed for passing such by-law, notify the clerk of the municipality of his intention to apply to the county judge to determine the extent to which such lands should be exempted under subsection 4, and the County Judge shall have full power to order and determine the extent of such exemption, if any, and his order shall have the same effect as a by-law.

Procedure upon appeals to County Judge.

- (8) The provisions relating to appeals from a Court of Revision to the County Judge and to the amendment of the assessment roll thereon, shall, so far as applicable, regulate and govern the procedure to be followed upon appeals and applications to the County Judge under this section and the amendment of the by-law thereon.

(9)

- (9) Nothing in the last three preceding subsections contained shall be deemed to prevent or affect the right of appeal to the County Judge from the decision of a Court of Revision upon any appeal against an assessment.

Appeals from
Court of
Revision not
affected.

15. Section 40 of the said Act is repealed.

4 Edw. VII.,
c. 23, s. 40
repealed.

16. Section 46 of the said Act is amended by adding the following subsection:—

4 Edw. VII.,
c. 23, s. 46
amended.

- (1a) Such notice shall contain, written or printed on some part thereof, the name and post-office address of the clerk of the municipality or of the assessment commissioner, if any.

Name of clerk
on assess-
ment notice.

17. Subsection 19 of section 65 is amended by striking out the word "further" in the 7th line and substituting therefor the words "from a day named by the Court."

4 Edw. VII.,
c. 23, s. 65,
subs. 19
amended.

18. Section 76 of the said Act is repealed and the following substituted therefor:—

4 Edw. VII.,
c. 23, s. 76
repealed.

Appeal to
Ont. Ry. and
Municipal
Board.

76.—(1) Where there is an appeal from any Court of Revision under section 68 to a Judge of the County Court of the County in which the assessment is made, and the person desiring to appeal has been assessed to an amount aggregating \$40,000, such person shall have the right to appeal from the Court of Revision to The Ontario Railway and Municipal Board.

(2) The Clerk of the municipality shall forthwith by registered post notify the secretary of such Board of all notices of appeals coming within the provisions of this section, which are from time to time served upon him, and the secretary shall arrange a day for the hearing of such appeals, and shall notify the clerk thereof, and the clerk shall immediately by registered post notify the persons appealing.

(3) Sections 68 to 75 and sections 77 and 78 shall apply to all appeals taken under this section, and such Board shall have the powers and duties which by the said sections are assigned to a Judge of the County Court.

(4) An appeal shall lie to the Court of Appeal from
the

the decision of the Board, as provided by section 51 of *The Ontario Railway and Municipal Board Act, 1906.*

4 Edw. VII.,
c. 23
amended.

19. The said Act is amended by adding thereto the following section:—

Powers of
County Judge,
Court of
Revision, etc.,
as to
assessment.

78a It is hereby declared that the Court of Revision the County Judge, The Ontario Railway and Municipal Board, a Judge, or Judges of the Court of Appeal, have, and always have had, under the preceding sections of this Act, jurisdiction to determine not only the amount of any assessment, but also all questions as to whether any persons or things are or were assessable or are or were legally assessed or exempted from assessment under the provisions of this Act.

4 Edw. VII.,
c. 23, s. 112
amended.

20. Section 112 of the said Act is amended by adding after the figures "51" in the 11th line the following words, "or who has been assessed for business, but has not carried on business for the whole year, or who has been assessed for income from personal earnings and has not earned such income or has died during the year for which the assessment on such income was made."

4 Edw. VII.,
c. 23, s. 121
amended.

21. Section 121 of the said Act is amended by striking out the words "to have been due and payable on and from the 1st day of January in such year," in the last two lines, and substituting therefor the words "to have been in arrear on and from the 1st day of January in such year."

4 Edw. VII.,
c. 23, s. 127
amended.

22. Section 127 of the said Act is amended by striking out the words "which has subsequently been subdivided" in the 3rd and 4th lines.

4 Edw. VII.,
c. 23, s. 128
amended.

23. Section 128 of the said Act is amended by striking out the words "which has subsequently been divided" in the 3rd line.

4 Edw. VII.,
c. 23, s. 163
repealed.

24. Section 163 of the said Act is repealed.

4 Edw. VII.,
c. 23, s. 214
amended.

25. Section 214 of said Act as enacted by section 19 of the Act passed in the 6th year of His Majesty's reign, Chaptered 36, is amended by striking out the words and figures "31st day of December" in the 2nd line and substituting therefor the words and figures "20th day of December."

26. Subsection 3 of section 20 of the said Act is repealed and the following subsection substituted:—

4 Edw. VII.,
c. 23, s. 20
amended.

- (3) Any person who contravenes subsection 2 of this section shall incur a penalty not exceeding \$200.

Penalty.

27. Section 21 of the said Act is repealed and the following substituted therefor:—

4 Edw. VII.,
c. 23, s. 21
repealed.

- 21.—(1) Any person who, having been duly required to deliver or furnish any written statement or information mentioned in the next preceding five sections, makes default in delivering or furnishing the same and any company which makes default in delivering the statement in writing in section 15 mentioned, shall incur a penalty not exceeding \$100 and an additional penalty of \$10 for each day during which default continues.

Penalty for
not furnishing
information.

- (2) Any person knowingly stating anything falsely in any such statement or in furnishing such information shall incur a penalty not exceeding \$200.

28. Subsection 3 of section 52 of the said Act is repealed and the following substituted therefor:—

4 Edw. VII.,
c. 23, s. 52,
subs. 3
repealed.

- (3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts, or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment.

Penalty for
inserting
wrongfully
names in
roll.

29. Section 64 of the said Act is repealed and the following section substituted:—

4 Edw. VII.,
c. 23, s. 64
repealed.

Penalty for failure to attend as witness.

64. Any person summoned to attend the Court of Revision or before a County Judge under the provisions of this Act as a witness who fails, without good and sufficient reason, to attend, having first been tendered compensation for his time at the rate of 75 cents per day and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, shall incur a penalty not exceeding \$25.

4 Edw. VII., c. 23, s. 79, subs. 3 repealed.

30. Subsection 3 of section 79 of the said Act is repealed and the following substituted therefor:—

Penalty.

(3) For default in performance of his duties under this section, or under such by-law, the clerk of a municipality shall incur a penalty of not less than \$10 and not more than \$20.

4 Edw. VII., c. 23, s. 126 repealed.

31. Section 126 of the said Act is repealed and the following section substituted:—

Penalty for neglect to preserve list of lands in arrear for taxes.

126. Any clerk or assessment commissioner, as the case may be, of any municipality who neglects to preserve the said list of lands in arrear for taxes, furnished to him by the treasurer, in pursuance of section 121, or to furnish copies of such lists, as required, to the assessor, or neglects to return to the treasurer a correct list of the lands which have become occupied, or built upon, as required by section 122, or any assessor who neglects to examine the lands entered on his list, and to make returns in manner hereinbefore directed, shall incur a penalty not exceeding \$200.

4 Edw. VII., c. 23, s. 197, repealed.

32. Section 197 of the said Act is repealed and the following section substituted:—

197. Any treasurer, assessor, clerk or other officer who refuses or neglects to perform any duty required of him by this Act, and no other penalty is imposed, shall incur a penalty not exceeding \$100.

4 Edw. VII., c. 23, s. 199, repealed.

33. Section 199 of the said Act is repealed and the following section substituted:—

Penalty for unjust or fraudulent assessment.

199. Any clerk, treasurer, assessment commissioner, assessor or collector, or any assistant or other person in the employment of the municipality, acting under this Act, who makes an unjust or

fraudulent

fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts, or permits to be inserted therein the name of any person which should not be entered, or fraudulently omits, or allows to be omitted, the name of any person which should be entered, or wilfully omits any duty required of him by this Act, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment.

34. Section 200 of the said Act is repealed.

4 Edw. VII.,
c. 23, s. 200.
repealed.

35. Section 201 of the said Act is repealed and the following section substituted:—

4 Edw. VII.,
c. 23, s. 201
repealed.

201. Any assessor of any township, village or ward, who neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll within the prescribed period, shall incur a penalty not exceeding \$200.

Penalty for
neglect to
make out
roll.

36. Section 210 of the said Act is repealed and the following section substituted:—

4 Edw. VII.,
c. 23, s. 10.
repealed.

210. A sheriff who wilfully omits to perform any duty required of him by this Act shall be liable to a penalty not exceeding \$200.

Penalty on
sheriff.

37. Section 223 of the said Act is repealed and the following section substituted:—

4 Edw. VII.,
c. 23, s. 223
repealed.

223. Any person who wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, shall incur a penalty not exceeding \$20.

Tearing down
notices, etc.

38. Section 224 of the said Act is repealed and the following section substituted:—

4 Edw. VII.,
c. 23, s. 224
repealed.

224 Prosecutions for contraventions of this Act where a penalty or imprisonment is imposed, shall be had under *The Ontario Summary Convictions Act*.

4 Edw. VII.,
c. 23,
amended

39. The said Act is amended by adding the following section:—

Right of
action for
damages
against
officer.

225a. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention shall be liable to every person who is thereby injured for the damages sustained by such person by reason of said contravention.

4 Edw. VII.,
c. 23, amend-
ed.

40. The said Act is amended by adding the following section:

Assessment
of lands
in block.

22b. Notwithstanding anything in this Act, in a municipality composed of two or more townships the assessor when he finds it difficult for any reason to comply with the provisions of this Act requiring a separate assessment of each lot or subdivision thereof, may assess the lands of any person in any school section *en bloc* and for a lump sum or at so much per acre, without placing a separate valuation upon each lot or subdivision thereof, and without distributing the assessment in any way or entering any details thereof in the assessment roll or observing any of the formalities in relation to assessment prescribed by this Act. Provided that when any part of such lands is to the knowledge of the assessor occupied by any person as tenant or lessee he shall enter the name of such person on the roll and make a separate assessment of the land so occupied, but failure to enter such tenant or lessee on the roll or to assess the lands occupied by him shall not render invalid or illegal any assessment *en bloc* and for a lump sum or at so much per acre as above provided.

CHAPTER 89.

An Act to amend The Act respecting Statute Labour

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The Act respecting Statute Labour* is ^{4 Edw. VII., c. 25, s. 9,} amended by adding at the beginning of subsection 1 the following words "except as hereinafter provided", and by striking out all the words after the word "lot" in the fourth line of subsection 2 and substituting therefor the following words: "and the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot."

CHAPTER 90.

An Act to revise and consolidate the Municipal
 Drainage Laws.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	Repairing works constructed out of general funds, ss. 78, 79.
INTERPRETATION, s. 2.	MANDAMUS TO COMPEL REPAIR, s. 80.
DESCRIPTION OF WORKS WHICH MAY BE CONSTRUCTED, s. 3.	REPAIRS BY OWNERS, ss. 81, 82.
PROCEEDINGS:	REPAIRS BY INSPECTOR, s. 83.
Petition, s. 4.	PENALTIES FOR INJURING WORKS, s. 84.
Estimate and assessment by Engineer or Surveyor, ss. 5-10.	REMOVAL OF ARTIFICIAL OBSTRUCTIONS IN CONSTRUCTING WORKS, s. 85.
Report on covering drains, s. 11.	OPERATING PUMPING WORKS, ss. 86, 87.
Distinguishing assessments, ss. 12-14.	DEBENTURES FOR MAINTENANCE, s. 88.
Filing Report, ss. 15, 16.	PAYING BACK ADVANCES, s. 89.
Notice to persons assessed, s. 17.	MUNICIPALITIES ADOPTING DRAINS, UNDER DITCHES AND WATER-COURSES ACT, s. 90.
Consideration of report by Council, s. 18, 19.	COST OF DRAINAGE WORK, WHAT TO INCLUDE, s. 91.
Withdrawal of petitioners, ss. 20, 21.	PAYMENT OF ASSESSMENT AS BETWEEN LANDLORD AND TENANT, s. 92.
By-laws, ss. 22, 23.	DRAINAGE REFEREES:
Publication of by-laws, ss. 24, 25.	Referees, appointment of, s. 93.
Motions to quash, limitation of time for, s. 26.	Powers of Referee, ss. 94, 95.
COURT OF REVISION, ss. 27-43.	Appeals from Assessment, ss. 96, 97.
APPEALS, ss. 44-55.	Claims for damages, ss. 98-100.
DEBENTURES, ss. 56-59.	Mode of assessing damage payable by municipalities, s. 101.
ASSESSMENT OF ADJOINING MUNICIPALITIES, ss. 60-64.	Procedure before Referee, ss. 102-115.
SETTLING ASSESSMENTS BETWEEN MUNICIPALITIES, ss. 65-68.	Appeals from Referee, s. 116.
AMENDING BY-LAWS, ss. 69, 70.	Rules and Tariff of costs, ss. 117-119.
MAINTENANCE OF DRAINAGE WORKS, ss. 71, 74.	Repeal, 120.
VARYING ASSESSMENTS FOR MAINTENANCE, s. 75.	
REPAIRS AND ALTERATIONS:	
Alterations of work without further report, s. 76.	
Alterations for which further report necessary, s. 77.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Municipal Drainage Short title Act.*" R. S. O. 1897, c. 226, s. 1.

INTERPRETATION.

2. In this Act,

Interpreta-
tion.

(a) "Construction" shall mean the original opening, making, excavating or completing of drainage work; "Construction."

(b) "County" shall include a provisional judicial district; "County."

(c) "County Court" shall include district court. "County Court."

(d) "Judge" shall mean the senior, junior, or acting Judge of the County or District Court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but shall not include a Deputy Judge; "County Judge."

(e) "Court of Revision" shall mean a court of revision constituted under the provisions of this Act, for the trial of complaints respecting assessments for drainage work; "Court of Revision."

(f) "Initiating Municipality" shall mean the municipality undertaking the construction of any drainage work to which this Act applies; "Initiating Municipality."

(g) "Maintenance" shall mean the preservation and keeping in repair of a drainage work; "Maintenance."

(h) "Municipality" shall not include a county municipality; "Municipality."

(i) "Owner" or "actual owner" shall include the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell and convey the land, an agent of an owner under a general power of attorney, or under a power of attorney empowering him to deal with lands, and a municipal corporation as regards highways under their jurisdiction; "Owner," "actual owner."

(j) "Referee" shall mean the Referee for the purpose of the drainage laws of this Province as hereinafter provided; "Referee," 54 V. c. 51.

(k) "Reference" shall mean a reference or transfer to the said Referee under the provisions of this Act; "Reference."

(l)

"Relief."

(l) "Relief" shall mean relieving from liability for causing water to flow upon and injure lands or roads;

"Sufficient outlet."

(m) "Sufficient outlet" shall mean the safe discharge of water at a point where it will do no injury to lands or roads. R. S. O. 1897, c. 226, s. 2; 6 Edw. VII., c. 37, s. 5.

CONSTRUCTION OF DRAINAGE WORK.

What work may be undertaken on petition.

3.—(1)—Upon the petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in such petition within any township, incorporated village, town, or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of said means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved, or the lake or pond, the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within said area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit, and for outlet liability and relief from injuring liability as hereinafter defined. R. S. O. 1897, c. 226, s. 3 (1); 3 Edw. VII., c. 22, s. 1; 6 Edw. VII., c. 37, s. 1; Ib. s. 8 (2).

Council to order examination and report by engineer.

When work requires pumping, embanking, etc.

(2) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operations, but in every such case the municipal council shall not proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to the preceding subsection. R. S. O. 1897, c. 226, s. 3 (2);

When lands may be assessed by engineer for "injuring liability."

(3) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the

water

water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, Court of Revision, County Judge, or Referee; and such assessment may be termed "injuring liability";

- (a) The owners of the lands or roads thus made liable for assessment shall neither count for nor against the petition required by subsection 1 of this section unless within the area therein described.

(4) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed, an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, Court of Revision, County Judge or Referee; and such assessment may be termed "outlet liability."

- (a) The owners of the lands and roads thus made liable to assessment shall neither count for nor against the petition required by subsection 1 of this section, unless within the area therein described. R. S. O. 1897, c. 226, s. 3 (3), (4); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

(5) The assessment for injuring liability and outlet liability provided for in the two next preceding subsections shall be based upon the volume, and shall also have regard to the speed, of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments. R. S. O. 1897, c. 226, s. 3 (5).

(6) Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work; and such assessment shall be classified and scheduled as benefit. R.S.O. 1897, c. 226, s. 65.

PETITION FOR CONSTRUCTION.

Form of
petition.

4. The petition shall be in the form or to the effect of Schedule A. to this Act. R. S. O. 1897, c. 226, s. 4.

DUTIES OF ENGINEER OR SURVEYOR.

Oath of engi-
neer or
surveyor.

5.—(1) Any engineer or surveyor employed or appointed by any municipal council to perform any work under the provisions of this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty, take and subscribe the following oath, and shall leave the same with, or send it by registered letter to the clerk of the municipality:

In the matter of the proposed drainage work (*or as the case may be*) in the township of (*name*).

I (*name in full*) of the town of _____ in the county of _____ Engineer (*or* Surveyor) make oath and say, (*or* do solemnly declare and affirm):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the _____ of _____
in the county of _____ this _____
day of _____ A.D. 19 _____

A Commissioner, etc. (*or* Township Clerk, *or* J. P.)

R.S.O. 1897, c. 226, s. 5; 3 Edw. VII., 3. 22, s. 2; 6 Edw. VII., c. 37 s. 8 (2).

(2) The failure of the engineer or surveyor to take the oath shall not invalidate any proceedings taken under the provisions of this Act.

Assessment of
whole lot or
sub-division

6.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but may place such assessment on the quarter, half or whole lot containing the part affected as the case may be, if the owner of such part is also the owner of such lot or other said sub-division. R.S.O., 1897, c. 226, s. 6; 3 Edw. VII., c. 22, s. 2.

Apportion-
ment of
assessment
for drainage
work on sub-
division of
land assessed.

(2) Where part of a whole lot or of a sub-division or portion of a lot assessed by the engineer has been sold since the final revision of the assessment, the owner of the part so sold or the owner of the remaining portion of the lot or sub-division or portion of a lot so assessed, may give notice to the clerk of the municipality that he requires the said assessment to be apportioned between the owners of the property so assessed and sub-divided, and the township engineer shall thereupon make such apportionment in writing and the same

same shall be filed with the clerk and shall be by him attached to the original assessment, and shall be binding on the lands assessed in the manner apportioned by the said engineer, and the rate shall thereafter be levied and collected accordingly. The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by such engineer. 62 V. (2), c. 28, s 4.

7. The assessment upon any lands or roads for any drainage work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be necessary to insert the fractional part of the whole cost to be borne by the lands or roads. R.S.O. 1897, c. 226, s. 7; 3 Edw. VII., c. 22, s. 2. Assessment may be shown in money.

8. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. R.S.O. 1897, c. 226, s. 8; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2). Plans, specifications and estimates.

9.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. R.S.O. 1897, c. 226, s. 9 (1); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2). Bridges and culverts on highways.

(2) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work. R.S.O. 1897, c. 226, s. 9 (1), (2); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2). 8 Edw. VII., c. 52, s. 2. Bridges between highways and private lands. Maintenance of bridges.

(3) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto. Farm bridges.

thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges in repair. R.S.O. 1897, c. 226, s. 9 (3); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Allowing for
private
ditches, etc.

(4) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respecting ditches or watercourses which may be incorporated in whole or in part into such drainage work or used therewith. R.S.O. 1897, c. 226, s. 9 (4); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Disposal of
material taken
from drainage
work.

(5) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops (if any) occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs. R.S.O. 1897, c. 226, s. 9 (3)-(5); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Assessment of
compensation
for damage
to low lands
instead of
constructing
drain to an
outlet.

(6) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low lying lands in respect of such injuries. 2 Edw. VII., c. 32, s. 1; 3 Edw. VII., c. 22, s. 2; 4 Edw. VII., c. 10, s. 50; 6 Edw. VII., c. 37, s. 8 (2). (Amended.)

Appeal to
referee.

(7) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the Referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 10 days after the adoption of the engineer's report by the council, and the Referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing

the

the parties and if he sees fit their witnesses or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the Referee. The Referee, on an appeal under this subsection, may make such order as to him seems just, and his decision shall be final. R.S.O. 1897, c. 226, s. 9 (6); 3 Edw. VII., c. 32, s. 2; 9 Edw. VII., c. 78, s. 4.

(8) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof. In case more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered. 62 V. (2), c. 28, s. 5; 2 Edw. VII., c. 32, s. 3.

Notice to persons assessed.

Notice to owners for whom compensation assessed.

(9) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in their discretion from time to time appoint, and the council may adopt the report of the engineer if they see fit notwithstanding that such report is made after the six months herein fixed for making the same or after any extended period fixed by the council under this subsection. 62 V. (2), c. 28, s. 6 *part*; 4 Edw. VII., c. 42, s. 3.

Time for filing report of engineer.

(10) In case the engineer neglects to make his report within the time limited by the preceding subsection, or within the time fixed by the council under the said subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer to make the examination, report and assessment required by the preceding section. 62 V. (2), c. 28, s. 6 *part*.

If engineer neglects to do work council may appoint another.

(11) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 9.

By-law not to be invalid by reason of engineer's report not being filed within six months.

Spreading earth and removing timber on road allowances.

10. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling such road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than twelve feet of the middle of the road allowance (if required) and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. R.S.O. 1897, c. 226, s. 10, 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

COVERING DRAINAGE WORK.

Report on covering drains.

11. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. R.S.O. 1897, c. 226, s. 11; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

DISTINGUISHING ASSESSMENTS.

Engineer to distinguish assessments.

12. The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the lands and roads liable therefor respectively, and in separate columns. R.S.O. 1897, c. 226, s. 12; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Prior assessments to be taken into consideration.

13. In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. R.S.O. 1897, c. 226, s. 13; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to report as to whether or not other municipalities are interested and how.

14. The engineer or surveyor aforesaid shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested, and the lands therein assessed, and in

in what proportions. R.S.O. 1897, c. 226, s. 14; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

FILING REPORT.

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. R.S.O. 1897, c. 226, s. 15; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2). Engineer to file report.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under the provisions of this Act shall, if required so to do by the council by which he was engaged, send in his accounts to the said municipalities for his services, under oath, giving detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day; and the said account shall also set out whether said work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself, or that of a clerk or assistant. 3 Edw. VII., c. 22, s. 4 (1); 6 Edw. VII., c. 37, s. 2. Engineer or Surveyor to give detailed accounts of service, under oath.

(2) The said account upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the Judge free of charge.

(3) The clerk shall deliver the account to the Judge, who shall appoint a time and place at which he will proceed with the audit.

(4) The clerk shall give at least two days' notice of such audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

(5) At the time and place named in such appointment the Judge shall audit the account, and may disallow any charges which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. 3 Edw. VII., c. 22, s. 4, (2)-(5).

NOTICE TO PERSONS ASSESSED.

17. The clerk of the municipality shall notify all parties assessed within the area described in the petition, by mailing to the owner of every parcel of land assessed therein for the drainage work, a circular or postal card upon which shall be stated Clerk to notify parties assessed.

stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's lands and their assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall be not less than ten days after the mailing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. R.S.O. 1897, c. 226, s. 16.

CONSIDERATION OF REPORT.

Proceedings
at meeting for
consideration
of report.

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of its previous meeting, cause the report to be read by the clerk to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do; and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one person benefited in favour of the petition. R.S.O. 1897, c. 226, s. 17.

Referring
report back to
engineer for
re-consider-
ation

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other reason the report or assessment should be re-considered, may refer the report back to him for re-consideration, and the engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. 9 Edw. VII., c. 78, s. 5.

EFFECT OF WITHDRAWAL FROM PETITION.

Withdraw-
ing from
petition.

20. Should the petition at the close of the said meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within

within the area described to comply with the provisions of section 3, then the persons who have withdrawn from the petition shall on their respective assessments in the report, with one hundred per centum added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by said municipality in connection with such petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for such municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. R.S.O. 1897, c. 226, s. 18; 6 Edw. VII., c. 37, s. 3.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in such petition. 6 Edw. VII., c. 37, s. 10.

Certain by-laws heretofore passed confirmed.

BY-LAWS.

22. Should the council of the municipality in which the lands and roads described in the petition lie, be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws:—

What by-laws may be passed by council.

Doing Work and Borrowing Money.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be.

Providing for work.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the costs of appeal, if any, in sums of not less than \$50 each, and payable within twenty years from date (except in case of pumping and embanking drainage work, the debentures for which shall be payable within thirty years from their date), with interest at a rate of not less than 4 per centum per annum.

Borrowing funds.

Assessing Lands and Roads.

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads (including roads held by joint stock companies, railway companies, private individuals,

Assessing lands and roads.

counties

counties or county councils) to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

Fixing time
for paying
assessment.

4. For regulating the times and manner in which the assessments shall be paid.

Determining Assessment Liability.

Determining
property to
be benefited.

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or any person interested in any lands or roads to appeal as hereinafter provided. R.S.O. 1897, c. 226, s. 19.

FORM OF BY-LAW.

Form of
by-law.

23. The by-law shall, varying with the circumstances, be in the form or to the effect of the form given in Schedule B. to this Act. R.S.O. 1897, c. 226, s. 20.

PUBLICATION OF BY-LAW.

Publication
of by-law
and notice of
sitting of
Court of Re-
vision.

24.—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighboring municipality, and designated by resolution of the council, with a notice of the time and place of holding the Court of Revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the Referee during the six weeks next after the final passing of the by-law. R.S.O. 1897, c. 226, s. 21 (1); 7 Edw. VII., c. 42, s. 1.

Newspapers to
be sent to
each person
assessed.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing such newspapers shall make a statutory

statutory declaration of such mailing, and file the same with the clerk of the municipality publishing the by-law. R.S.O. 1897, c. 226, s. 21 (2).

25. The council may, at its option, instead of publishing in a newspaper, by resolution direct that a copy of the by-law, including said notice of the sitting of the Court of Revision and notice as to proceedings to quash, written or printed, or partly written and partly printed, be served upon each of the assessed owners, or their lessees or the occupant of their lands, or the agent of such owner, or be left on the lands, if occupied, with some grown up person; and if the lands are unoccupied and the owner or his agent does not reside within the municipality, the council may cause a copy of the by-law and notices to be sent by registered letter to the last known address of such owner; and a statutory declaration shall be made by the person effecting any service or mailing any such registered letter, showing the manner and date of effecting the service or mailing the registered letter; and the said declaration shall be filed by the person making the same, with the clerk of the municipality passing the by-law. R.S.O., 1897, c. 226, s. 22.

Service in lieu of publication.

26. In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. R.S.O. 1897, c. 226, s. 23.

If by-law or part thereof not quashed within time limited.

COURT OF REVISION.

27. If the council of the municipality consists of not more than five members, such five members shall be a Court for the revision of the assessments for the drainage work. R.S.O., 1897, c. 226, s. 24.

Court of Revision where council consists of five or less than five.

28. If the council consists of more than five members, it shall appoint five of its members to constitute the Court of Revision. R.S.O., 1897, c. 226, s. 25.

Where council contains more than five members.

29. Every member of the Court of Revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by-law affirmation is allowed:

Oath of member of court.

I, _____, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favor or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of said Court.

R.S.O. 1897, c. 226, s. 26.

Quorum.

30.—(1) Three members of the Court of Revision shall constitute a quorum, and the majority of a quorum may decide all questions before the Court.

Members not to sit on appeals when interested.

(2) No member of the Court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. R.S.O., 1897, c. 226, s. 27.

Clerk of Court.

31.—(1) The clerk of the municipality shall be the clerk of the Court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the Court.

Form of summons.

(2) The summons to any witness issued by the clerk under this section may be in the following form:—

You are hereby required to attend and give evidence before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the drainage work (*naming or describing work*) and of the following appeal.
Appellant (*name of*).

A. B.

Clerk of the Township of _____

Witness fees.

(3) The fees payable to any witness on an appeal to the Court of Revision shall be according to the scale of witness fees in the Division Court. R.S.O. 1897, c. 226, s. 28.

Meeting and adjournments.

32. At the time appointed, the Court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the Court may adjourn from time to time as required. R.S.O. 1897, c. 226, s. 29.

Administering oaths and summoning witnesses.

33. The evidence of witnesses shall be taken on oath and any member of the Court may administer an oath to any party or witness. R.S.O. 1897, c. 226, s. 30.

Witness failing to attend when summoned.

34. If any person summoned to attend the Court of Revision as a witness fails, without good and sufficient reason, to attend (having been tendered the proper witness fees) he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the proper Division Court, or in any way in which

penalties

penalties incurred under any by-law of the municipality may be recovered. R.S.O. 1897, c. 226, s. 31.

Procedure for Trial of Complaints.

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads which should have been assessed, have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all the causes aforesaid. R.S.O. 1897, c. 226, s. 32.

Who may give notice of appeal.

36. The trial of complaints shall be had in the first instance by and before the Court of Revision of the municipality in which the lands and roads assessed are situate, and the first sitting of such Court shall be held pursuant to notice on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be; notice of the first sitting of the Court shall be published or served with the by-law, but the Court may adjourn from time to time as occasion may require; and all notices of appeal shall be served on the clerk of the municipality at least ten days prior to the first sitting of the Court; but the Court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. R.S.O. 1897, c. 226, s. 33.

Time for holding Court of Revision.

Notice.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality; which notice shall be in the form following or to the like effect:

Form of notice of complaint.

Take notice that you are required to attend before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the following appeal:—

"Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).

"To J. K.

(Signed.)

X. V.
Clerk."

R.S.O. 1897, c. 226, s. 34.

Serving
notice.

38. The notice in the preceding section mentioned shall be sent by letter addressed to such person and to his post office address or to his last known address, at least seven days before the first sitting of the Court. R.S.O. 1897, c. 226, s. 35.

Entry of ap-
peals.

39. The clerk of the Court shall enter the appeals on a list in the order in which they are received by him, and the Court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1897, c. 226, s. 36.

Form of list
of appeals.

40. Such list may be in the following form:—

Appeals from the assessment of the engineer on
drainage work, to be heard at the Court of Revision to be held at
commencing at 10 o'clock in the forenoon on the
day of 19.

Appellant.	Omitted or wrongly assessed.	Matter complained of.
A. B.....	Self.....	Overcharged for benefit.
C. D.....	Self.....	Overcharged for outlet.
E. F.....	Self.....	Overcharge for injuring.
G. H.....	J. R.....	Undercharge for benefit.
L. M.....	N. O.....	Undercharge for outlet.
P. Q.....	R. S.....	Undercharge injuring.
T. U.....	V. W.....	Wrongly omitted.
X. Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

R.S.O. 1897, c. 226, s. 37.

Court of Revi-
sion may take
into consider-
ation prior
assessments.

41. In case any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the Court of Revision or Judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. R.S.O. 1897, c. 226, s. 38.

Adjournment
of Court to
notify persons
affected by
alteration of
assessment.

42. When the ground of complaint is, that lands or roads are assessed too high, and the evidence adduced satisfies the Court of Revision or Judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the Court or Judge shall adjourn the hearing of such appeal, for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which such hearing is adjourned; the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the Court or Judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the

assessment

assessment appealed against is reduced (if any) may be distributed pro rata over the assessments of its own class or otherwise so as to do justice to all parties. R.S.O. 1897, c. 226, s. 39.

43. The clerk shall by registered letter immediately after the close of the Court, notify all appellants of the result of their appeals and also of the date of the closing of the Court of Revision. R.S.O. 1897, c. 226, s. 40.

Notice of result of appeal.

APPEALS FROM COURT OF REVISION.

44. An appeal from the Court of Revision shall lie to the Judge, not only against a decision of the Court of Revision, but also against the omission, neglect or refusal of said Court to hear or decide an appeal. R.S.O. 1897, c. 226, s. 41.

Appeal to County Judge.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within ten days after the date of the closing of the Court of Revision, a written notice of his intention to appeal to the Judge. R.S.O. 1897, c. 266, s. 42.

Time for giving notice of appeal.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the same to the Judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding such hearing at the town hall or other place of meeting of the council of the municipality from the Court of Revision of which the appeal is made, unless the Judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. R.S.O. 1897, c. 226, s. 43.

Clerk to notify Judge and Judge to fix time and place for hearing appeals.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the Court of Revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the Judge may direct notice to be given for some subsequent day upon which he may try the appeals. R.S.O. 1897, c. 226, s. 44.

Notice to persons appealed against.

48. At the Court so holden the Judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. R.S.O. 1897, c. 226, s. 45.

Time for giving judgment.

49.—(1) The clerk of the municipality shall be the clerk of such Court, and shall record the proceedings thereof and shall have the like powers as the clerk of a Division Court as to

Clerk of Court.

to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the Judge, for the attendance of any person as a witness before him.

Witness fees.

(2) The fees to be allowed to witnesses upon an appeal to the Judge under this Act shall be those allowed to witnesses in an action in the Division Court. R.S.O. 1897, c. 226, s. 46.

Powers of Judge on appeal.

50. In all proceedings before the Judge as aforesaid, he shall possess all such powers for compelling the attendance of and for the examination on oath of all parties, and all other persons whatsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the Division Court or County Court. R.S.O. 1897, c. 226, s. 47.

Fees and costs of Appeals.

Apportionment of costs—enforcing payment.

51. The costs of any proceeding before the Court of Revision, or before the Judge as aforesaid, shall be paid or apportioned between the parties in such manner as the Court or Judge thinks fit, and the same shall be enforced when ordered by the Court of Revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the Judge, by execution to be issued as the Judge may direct, either from the County Court or any Division Court within the county in which the municipality is situate. R.S.O. 1897, c. 226, s. 48.

What costs may be awarded—taxation of.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the Division Court for such costs, and in cases where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. R.S.O. 1897, c. 226, s. 49.

Fees and expenses of Judge.

53. The Judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the Court of Revision, the sum of five dollars per day and disbursements necessarily incurred. R.S.O. 1897, c. 226, s. 50.

Decision to be final.

54. The decision of the Judge shall be final and conclusive. R.S.O. 1897, c. 226, s. 51.

Clerk to alter assessments conformably

55. Any change in the assessment of the engineer or surveyor made by the Court of Revision or by the Judge in

appeal

appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the Court of Revision or Judge. R.S.O. 1897, c. 226, s. 52.

with result of
appeals.

ISSUE OF DEBENTURES.

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. R.S.O. 1897, c. 226, s. 53.

Debentures
may include
principal and
interest in
one sum.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. R.S.O. 1897, c. 226, s. 54.

Payment of
assessment be-
fore debent-
ures issued.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. R.S.O. 1897, c. 226, s. 55.

Informalities
not to invali-
date debent-
ures.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. R.S.O. 1897, c. 226, s. 56.

When debentures to be
valid and
binding to
extent of
amount
advanced.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by such

Drainage
work not con-
tinued into
another
municipality.

work

work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

Work on
boundary
road allow-
ance.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality, merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. R.S.O. 1897, c. 226, s. 57.

Where area
lies in either
side of
boundary
road.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality.

Construction
of drainage
work on road
allowance.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the municipal council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 10, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing the said work as he may deem just. R.S.O. 1897, c. 226, s. 58.

WORK CONTINUED INTO ANOTHER MUNICIPALITY.

Continuing
work beyond
the limits of
municipality.

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet; and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just; and in his report thereon he shall estimate separ-

ately the cost of the work within each municipality and upon the road allowances or other boundaries. R.S.O. 1897, c. 226, s. 59.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in the next preceding section. R.S.O. 1897, c. 226, s. 60.

Charging neighbouring municipality when work does not enter same.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. R.S.O. 1897, c. 226, s. 61.

Council of initiating municipality to serve other municipalities to be affected.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 3 of this Act, pass a by-law or bylaws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the Referee or Court of Appeal, and such council shall hold the Court of Revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. R.S.O. 1897, c. 226, s. 62.

Municipality served to raise and pay over its proportion of cost.

67.—(1) The council of any municipality served as provided by section 65 may, within six weeks after such service upon its head, appeal to the Referee from the report, plans, specifications, assessments and estimates of the engineer or surveyor

Appeal to referee from report of engineer.

surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor with a written notice of appeal, setting forth therein the reasons for such appeal.

Grounds of appeal.

(2) The reasons of appeal which shall be set out in such notice may be the following or any of them:—

(a) Where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,—

1. That the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
2. That such scheme does not provide for a sufficient outlet;
3. That the course of the drainage work, or any part thereof, should be altered;
4. That the drainage work should be carried to an outlet in the initiating municipality or elsewhere.
—R.S.O., c. 226, s. 63 (1); 7 Edw. VII., c. 42, s. 5.

(b) In any case not otherwise provided for.

1. That a petition has been received by the council of the appealing municipality, as provided by section 3 of this Act, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;
2. That such appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality;
3. That the initiating municipality should not be permitted to do the work within the limits of the appealing municipality;
4. That the assessment against lands and roads within

the

the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. R.S.O. 1897, c. 226, s. 63 (2).

68.—(1) Upon an appeal under the preceding section the Referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality assessed for the drainage work; and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the Referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just. Powers of referee on appeal.

(2) The order of the Referee upon such appeal shall be subject to appeal to the Court of Appeal as in other cases, and the decision of the Court of Appeal shall be final and conclusive as to all corporations affected thereby. Appeal to Court of Appeal.

(3) The council of the initiating municipality may, by resolution passed within thirty days after the decision of the Referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the Referee or the Court of Appeal may seem just. R.S.O. 1897, c. 226, s. 64. Abandonment of work by initiating municipality.

AMENDING BY-LAW.

69.—(1) Any by-law heretofore passed or which may be hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law. Amendment of by-law when insufficient funds provided.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council When lands and roads in another

municipality
assessable.

of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates; and the council of any municipality so served shall have the same right of appeal to the Referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

Amendment
of by-law
which pro-
vides more
than sufficient
funds and
distribution of
surplus.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work.

Amendment
of by-law not
providing
sufficient
funds.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 73 of this Act. R.S.O. 1897, c. 226, s. 66.

Issuing debentures for completion of county drainage works commenced before 57 V c. 56.

Publication
of amending
by-laws.
Rev. Stat.
c. 40.

70. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of the preceding section shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any

debentures

debentures issued under the authority of the said section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. R.S.O. 1897, c. 226, s 67.

MAINTENANCE OF DRAINAGE WORK.

71. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality.

Maintenance
of work not
continued
into another
municipality.

- (a) If no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of such drainage work, or,
- (b) If lands or roads in any other municipality or roads between two or more municipalities are in any way assessed for the construction of such drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,—

Unless or until such assessment or proportion as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 68.

72. Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under the provisions of this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and is continued thence into the lands of any other municipality shall after the completion thereof be maintained by the

Maintenance
of drainage
work passing
into another
municipality.

initiating

initiating municipality from the point of commencement of the drainage work in the municipality or upon such road allowance to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, and by such last mentioned municipality and by every other municipality through or into which the drainage work is continued from the point at which the drainage work crosses the boundary line between a road allowance and lands in the municipality to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 69.

Maintenance of drains constructed by government or under county by-laws.

73.—(1) Where a drainage work constructed before the 5th day of May, 1894, under the provisions of *The Ontario Drainage Act* or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act.

Rev. Stat. 1887, c. 36.

When such drains extend into another municipality.

(2) Any drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act* or any Act in amendment thereof or under a by-law passed by a county council, which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences, from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality, or on a road allowance adjoining the municipality, or to the point

Rev. Stat. 1887, c. 36.

at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. R.S.O. 1897, c. 226, s. 70.

74.—(1) The council of any municipality undertaking the repair of any drainage work under section 71, 72 or 73 of this Act shall, before commencing the repairs serve upon the head of any municipality liable to contribute any portion of the cost of such repairs under the provisions of this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work; and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the Referee on the ground that the amount assessed against lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work; and the Referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just. The order of the Referee upon such appeal shall be subject to appeal to the Court of Appeal for Ontario, and the decision of the Court of Appeal for Ontario shall be final and conclusive as to all corporations affected thereby. R.S.O. 1897, c. 226, s. 71 (1); 1 Edw. VII., c. 30, s. 1.

Service of by-law on municipality in which lands are assessed without drain being continued into it.

Appeal.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall, within that period raise

Council served to raise and pay over amount required.

and

and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 71 (2).

VARYING ASSESSMENT.

Varying assessment for maintenance.

75.—(1) The council of any municipality liable for the maintenance of any drainage work may from time to time as the same requires repairs vary the proportions of assessment for maintenance, on the report and assessment of an engineer appointed by the council to examine and report on the condition of the work, or the portion thereof, as the case may be, which it is the duty of the municipality as aforesaid to maintain and on the liability to contribute of lands and roads which were not assessed for construction, and have become liable to assessment under this Act; and the engineer or surveyor may in his report upon such repairs assess lands and roads in the municipality undertaking the repairs and in any other municipality from which water flows through the drainage work into the municipality undertaking the repairs; but he shall not, except after leave given by the Referee on an application of which notice has been given to the head of every municipality affected, assess for such repairs any lands or roads lying in any municipality into which water flows through the drainage work from the municipality undertaking the repairs.

Proceedings on report of engineer.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

Appeal from report of engineer.

(3) Any council served with a copy of such report and assessment may appeal from the finding of the engineer as to the proportion of the cost of the work for which the municipality is liable to the Referee, and the proceedings on such appeal shall be the same as in other cases of appeals to the Referee under this Act.

Appeal to Court of Revision.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a Court of Revision for the trial of any appeals in the manner hereinbefore provided. R.S.O. 1897, c. 226, s. 72.

Basis of future assessments.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby.

REPAIRING

REPAIRING WITHOUT REPORT.

76. The Council of any municipality, whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of such municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the same to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800; and in every case where the cost of said improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 77 of this Act. R.S.O. 1897, c. 226, s. 74; 1 Edw. VII., c. 30, s. 2; 8 Edw. VII., c. 5, s. 1.

Deepening,
widening or
extending
without re-
port of
engineer.

REPAIRING UPON REPORT.

77.—(1) Wherever, for the better maintenance of any drainage work constructed under the provisions of this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of such drainage work, or make a new outlet for the whole or any part of the work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of the municipality or of any of the municipalities whose duty it is to maintain the said drainage work, may, without the petition required by section 3 of this Act, but on the report of an engineer or surveyor appointed by them to examine and report on the same, undertake and complete the change of course, new outlet, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, improvement, extension, alteration or covering, have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. R.S.O. 1897, c. 226, s. 75; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 9.

Repairing
upon examina-
tion and re-
port by
engineer.

(2) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under the provisions of *The Ontario Drainage Act* in the same manner, to the same extent, and by the same proceedings as are hereby made

made applicable to the better maintenance of a drainage work wholly artificial. 6 Edw. VII., c. 37, s. 9.

(3) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 95 of this Act.

REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS.

Assessment
for repair of
work con-
structed out
of general
funds.

78.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds, or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 3, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act, for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. R.S.O. 1897, c. 226, s. 76; 63 V., c. 38, s. 1.

Deepening,
etc., drain
constructed
out of gen-
eral funds.

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended, or provided with a new outlet for the whole or any part thereof. 4 Edw. VII., c. 10, s. 51.

Estimating
and assess-
ing damage
for overflow
where cost
of work
exceeds
damage.

79.—(1) Where an engineer or surveyor is directed by the Council to make an examination and report under section 77 or subsection 2 of section 78, and upon such examination he is of opinion that the cost of changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the work, then in lieu of such change of course, new outlet, improvement, extension or alteration, or any part of such work, he may in his estimate of the cost of the work include a sufficient sum to compensate the owners of such low-lying lands for any injuries sustained from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

Appeal of
owner to
Referee.

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of
the

the engineer, may appeal therefrom to the Referee in manner provided by subsection 7 of section 9 of this Act, and the Referee may hear and determine such appeal in manner as provided by the said subsection.

MANDAMUS TO COMPEL REPAIR.

80.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the Referee or other Court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 71 to 78 of this Act, or such of the said powers as to the Referee or Court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected

Power to
compel re-
pairs by
mandamus.

(a) Any party to such proceedings may by leave of the Referee or of the Court of Appeal or a Judge thereof, appeal to the Court of Appeal from the decision or judgment of the Referee.

(b) A mandamus against the municipality shall not be moved for until after the lapse of thirty days from the date of the service of the notice. See R.S.O. 1897, c. 226, s. 73.

REPAIRS BY OWNERS.

81. It shall be lawful for the council of any municipality to pass a by-law or by-laws providing that it shall be the duty of the owner of every lot or part of a lot assessed for benefit to clean out the drain and keep the same free from obstructions which may hinder or impede the free flow of the water, and to remove therefrom all weeds and brushwood and to keep the banks of the drain in order to the extent and in manner or proportion and for the distance determined by the engineer in his report, and in case any such owner makes default in so doing for thirty days after notice in writing from the council of the municipality the work may be done by the said council or by any officer appointed by them for the purposes of the said drain and the cost thereof after notice of the same to the person so making default and liable therefor shall be placed on the collector's roll against the lands of such owner and shall be chargeable against the said lands and be collected in the same manner as other municipal or drainage assessments. 63 V., c. 38, s. 2 (1).

Duty of
owners as to
cleaning out
and maintain-
ing banks.

(2) The engineer or surveyor shall in his report state the portion of the said drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in

Engineer to
apportion
work of clean-
ing out drain
among
owners.

good

good order as prescribed by this section. 63 V., c. 38, s. 2 (2); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Persons responsible for obstruction to remove same on notice.

82.—(1) When any drainage work, heretofore or hereafter constructed, becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid, and if not so removed within the time specified in the notice, the council or the said inspector, shall forthwith cause the same to be removed.

Inspector of drains.

(2) The Council may, by by-law, appoint an inspector for the purposes mentioned in the preceding subsection, and shall in the by-law regulate the fees or other remuneration to be received by him.

Collection of cost of removal by municipality.

(3.) If the cost of removing such obstruction is not paid by the owner or occupant of the lands liable, to the municipality forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the Judge by the owner or occupant, in respect of the cost of the work. R.S.O. 1897, c. 226, s. 78.

Minor repairs.

83. The council of any municipality may by by-law direct that the Inspector appointed under section 83 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of the drainage work and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first mentioned by-law, unless in the meantime the total expense incurred shall exceed the sum of \$100. 7 Edw. VII., c. 42, s. 1.

CUTTING EMBANKMENTS, BANKS, ETC.

Penalty for injury to embankments, etc.

84. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint

complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, upon summary conviction thereof, shall incur a penalty of not less than \$5 nor more than \$100 and shall also be liable to imprisonment for any term not exceeding six months, and in default of payment of such penalty shall further be liable to imprisonment for any term not exceeding three months. R.S.O. 1897, c. 226, s. 79.

REMOVING ARTIFICIAL OBSTRUCTIONS.

85. Wherever, in the construction of any drainage work any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement be determined by the Referee, to remove the same wholly or in part; and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. R.S.O. 1897, c. 226, s. 80; 4 Edw. VII., c. 10, s. 52.

Removal of
dams, etc.,
on construc-
tion of work.

OPERATING PUMPING WORKS.

86.—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating such drainage work, as may be set forth in the by-law appointing them; and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under the provisions of this Act. R.S.O. 1897, c. 226, s. 81 (1); 8 Edw. VII., c. 52, s. 3. *Amended.*

Appointment
of commis-
sioners for
pumping
works, etc.

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipments belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. R.S.O. 1897, c. 226, s. 81. (2).

Commission-
ers of pump
ing works.

Assuming
pumping
works, etc.,
constructed by
private
persons.

87. Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent as if the said drainage work had been constructed under the provisions of this Act, but at the cost of the lands and roads liable to be assessed for the work. R.S.O. 1897, c. 226, s. 82.

DEBENTURES FOR MAINTENANCE.

Powers to
issue debentures for cost
of maintenance.

88.—(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the said council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess, and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

(2) Where such debentures are issued for work done under the provisions of section 77 of this Act, such debentures shall be payable within twenty years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision such debentures shall be payable within seven years from the date thereof.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-laws passed under this section, which has before its final passing been published or of which the ratepayers have been notified in manner provided by this Act or which has, after its passing been promulgated as required by section 375 of *The Consolidated Municipal Act, 1903*. R.S.O. 1897, c. 226, s. 83; 62 V., c. 38, s. 3.

3 Edw. VII.
c. 19.

PAYING BACK ADVANCES.

Repayment
of advances
from general
funds on
receipt of
assessments.

89. Any moneys which have been or may hereafter be advanced by the council of any municipality out of its general funds for the purpose of any drainage work, in anticipation of the levies and collections therefor, shall be repaid into the general funds of the municipality as soon as the moneys first derived from the assessment are collected. R.S.O. 1897, c. 226, s. 77.

MAKING AWARD DRAINS MUNICIPAL.

Power to
bring drains
constructed
under Rev.
Stat. c. 285,
within this
Act.

90. Upon a petition presented to the council of any municipality as provided for in section 3 of this Act, having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment

assessment in work, signed by a majority of the owners interested in such ditch or drain, the said council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under the provisions of this Act, and the passing of the by-law under the provisions of this Act shall in every such case be a bar to any further proceedings upon the award or under the provisions of the Act upon which such award is based. R.S.O. 1897, c. 226, s. 84.

COST OF REFERENCE AND INCIDENTAL EXPENSES.

91. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of such work, and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. R.S.O. 1897, c. 226, s. 86.

Certain expenses to be deemed part of the cost of the work.

LANDLORD AND TENANT.

92. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands, shall not include the charges and assessments for any drainage work unless such agreement in express terms so provides; but in cases of contracts to purchase or of leases giving the lessee an option to purchase, the said charges and assessments for drainage work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair, and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. R.S.O. 1897, c. 226, s. 87.

Tenant's covenant to pay taxes—when to include drainage assessments.

DRAINAGE REFEREES.

93.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act, and other Acts, and parts of Acts on the same subject.

Referees, appointment of.

(2) Such referees shall be deemed to be and shall be officers of the High Court.

To be officers of High Court.

(3) They shall be barristers of at least ten years' standing at the Bar of Ontario.

Qualification.

Tenure of
office.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*.

Not to
practise.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter.

Salary.

(6) They shall each be paid a salary of such amount as may be appropriated by the Legislature for the purpose (not exceeding \$3,500 a year) to be paid monthly, together with their reasonable travelling expenses.

Jurisdiction.

(7) One of the said Referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other Referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in the Province of Ontario.

Absence or
illness.

(8) Where either of the Referees is absent or owing to illness or other cause is unable to act, or where the office of either Referee is vacant, the remaining Referee shall act and shall have jurisdiction as Referee over the whole Province until the vacancy is filled or the other Referee is able to act. R.S.O. 1897, c. 226, s. 88; 6 Edw. VII., c. 37, s. 6.

Referee to
have powers
of an official
referee under
Rev. Stat.
cc. 51 and 62.

94.—(1) The Referee shall have the powers of an Official Referee under *The Judicature Act* and *The Arbitration Act* and of arbitrators under any former enactments relating to drainage works. R.S.O. 1897, c. 226, s. 89 (1).

Powers as to
compelling
production,
amending
notices, etc.

(2) In respect to all applications and proceedings before him or which may come before him under the provisions of this Act, or any former Act relating to drainage works, he shall have the powers of a Judge of the High Court of Justice, including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings; he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties; he may also grant an injunction or a mandamus in any matter before him under this Act. R.S.O. 1897, c. 226, s. 89 (2); 1 Edw. VII., c. 30, s. 3.

Granting a
mandamus or
injunction.

(3) The Referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question; and, with the engineers's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the Court of Revision or a County Judge. R.S.O. 1897, c. 226, s. 89 (3).

Power to determine validity of proceedings and amend report.

95. All interlocutory applications for any of the purposes mentioned in subsection 2 of the last preceding section shall be made to the Referee and his order thereon shall be final and conclusive. R.S.O. 1897, c. 226, s. 90.

Interlocutory applications, no appeal from referee thereon.

APPEALS FROM ASSESSMENT.

96. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the Clerk of the County Court of the county or union of counties in which the drainage work commenced. R.S.O. 1897, c. 226, s. 91.

Notice of appeal from assessment to be filed.

97. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to incorporate and carry into effect the decision or report of the Referee or such decision or report as varied on appeal, as the case may be. R.S.O. 1897, c. 226, s. 92.

Amendment of by-law to carry out decision of referee.

98.—(1) Subject to the provisions of section 99 of this Act, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an Engineer, resolution of a Council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under the provisions of this Act or consequent thereon or by reason of negligence or for a mandamus or injunction shall be made to and shall be heard and tried by the Referee who shall hear and de-

Application to set aside drainage by-law, report, petition or resolution to be made to Referee.

termine

termine the same and give his decision and his reasons therefor.

Proceedings
to be in-
stituted by
notice.

(2) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence or by way of compensation or otherwise or for a mandamus or an injunction under this section shall be instituted by serving 10 clear days' notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned.

Notice to be
filed in County
Court.

(3) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the County Court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose.

Affidavits to
be filed 10
days before
motion.

(4) All affidavits intended to be used in support of a motion shall be filed with the Clerk of the County Court not less than five days before the return day of the motion.

Application
not to be
made other-
wise.

(5) Subject to the provisions of section 99 of this Act, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided.

Costs on
claims not ex-
ceeding \$60
on Division
Court scale.

(6) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the Division Court scale so far as the same is applicable. 9 Edw. VII., c. 78, s. 1.

Actions may
be transferred
to Referee.

99.—(1) Where an action is brought or is pending and the Court in which the same is brought or is pending or a Judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the Referee, the Court or Judge may, on the application of either party, at any stage of the action make an order transferring it to the Referee on such terms as may be deemed just, and the Referee shall thereafter give directions for the continuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Application of
section.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. 9 Edw. VII., c. 78, s. 2.

100. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to the Court of Appeal for Ontario and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. 1 Edw. VII., c. 30, s. 5.

Decision of
Court of
Appeal to be
final.

101.—(1) Save as provided by subsections 2, 3 and 4 of this section all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

Assessing
damages and
costs payable
by municipi-
alities.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the Referee or Court may direct that the whole or any part of such damages and costs shall be borne by such municipality and be payable out of the general funds thereof.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by the advice of counsel, the damages and costs payable under the terms of such settlement by any municipality shall be borne and paid as directed by the Referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the Referee shall have regard to the provisions of the next preceding subsection. R.S.O. 1897, c. 226, s. 95.

(4) Where in the opinion of the Referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the said drainage work, the Referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter be assessed, levied and collected as if it were part of the actual cost of the drainage work. Any report heretofore made by the Referee and containing such permis-

sion

sion shall be deemed to have been made with the jurisdiction conferred by this subsection as if hereafter made.

PROCEEDING WITH REFERENCE.

Referee to direct procedure.

102.—(1) The Referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

Clerk of Court.

(2) The Clerk of the County Court shall be the Clerk of the Court of the Referee, and shall take charge of and file all the exhibits and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the County Court.

(3) The Clerk shall be entitled to such fees as the Referee may direct, not exceeding \$4 per day for his attendance at the court and such fees shall be included in the costs and shall be borne and paid as the Referee may direct.

(4) The fees payable to the Clerk shall be paid in money and not in stamps.

Referee's clerk.

(5) In the absence of the Clerk of the County Court the Referee may appoint the Referee's clerk or some other person to act as Clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the Clerk of the County Court would have and be entitled to if personally present.

Subpoenas.

(6) Subpœnas for the attendance of witnesses at the hearing, tested in the name of the Referee, may be issued by the Clerk of the County Court of the county in which the case is to be heard. R.S.O. 1897, c. 226, s. 96.

When referee proceeds on view or special knowledge.

103. When the Referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow the Court of Appeal to form a judgment of the weight which should be given thereto; and he shall state as part of his

reasons

reasons the effect by him given to such statement. R.S.O. 1897, c. 226, s. 97.

104. Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the Referee, and every such officer shall be deemed to be an officer of the High Court, and shall be paid in the same manner as shorthand writers in the High Court are paid and the several sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. R.S.O. 1897, c. 226, s. 98; 6 Edw. VII., c. 37, s. 7.

Shorthand
writer.

Rev. Stat., c.
51.

105. The decision or report of the Referee with the evidence, exhibits, and statement (if any) of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the Clerk of the County Court, and notice of the filing shall forthwith be given by the Clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. R.S.O. 1897, c. 226, s. 99.

Clerk of
Court to for-
ward notice of
filing report,
etc., to
parties.

106. A copy of the decision or report certified by the Referee or Clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. R.S.O. 1897, c. 226, s. 100.

Report to be
sent to clerk
of each munici-
pality inter-
ested.

107. The decision or report of the Referee shall be in the form of an order for judgment and may be delivered as decisions by the Judges of the Supreme Court are, and need not be in the form of a report; and unless appealed from to the Court of Appeal, as herein provided, judgment may be entered in the proper office without any further or other application or order. R.S.O. 1897, c. 226, s. 101.

Decision to be
in form of
order for
judgment.

108. When an appointment is given by the Referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a Judge of the High Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. R.S.O. 1897, c. 226, s. 102.

Use of court
house.

109. Sheriffs, deputy-sheriffs, constables and other peace officers shall aid, assist and obey the Referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the said Referee,

Sheriffs, etc.,
to assist
referee—fees
therefor.

be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court for the trial of causes. R.S.O. 1897, c. 226, s. 103.

**Rules and
practice.**

110. Except as in this Act otherwise provided and subject to the provisions thereof, the rules and practice for the time being of the High Court of Justice shall be followed so far as the same are applicable. R.S.O. 1897, c. 226, s. 104.

**Evidence
taken before
Referee need
not be filed
or written
out.**

111. In cases brought before the Referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only be written out at length by the shorthand writer, if required by the Referee or by any parties to the reference; and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1897, c. 226, s. 105.

**Taxation of
costs.**

112. Costs shall be taxed by the Referee; or he may direct the taxation thereof by the Clerk of the County Court with whom the papers are filed, or by any taxing officer of the High Court. R.S.O. 1897, c. 226, s. 106.

**Fees, how
to be paid.**

113. Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in the said courts respectively, until other provision is made in that behalf by competent authority. R.S.O. 1897, c. 226, s. 107.

**Fees on
trial.**

114. To provide a fund for or towards the payment of the Referee's salary and other expenses, there shall be further payable a sum which shall be determined by the Referee and mentioned in his decision or report or in a subsequent report; the said sum not to exceed the rate of four dollars a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the Referee directs. R.S.O. 1897, c. 226, s. 108.

**Reports to be
stamped.**

115. The decision or report of the Referee shall not be given out until stamped with the necessary stamps. R.S.O. 1897, c. 226, s. 109.

**Time for
appealing to
Court of
Appeal.**

116.—(1) The decision or report of the Referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to the Court of Appeal within one month after the filing thereof, or within such further time as the Referee or the Court of Appeal or a Judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the Referee shall be final.

(2) The decision or report may be appealed against to the Court of Appeal in the same manner as from a decision of a Judge of the High Court sitting in Court. R.S.O. 1897, c. 226, s. 110.

RULES AND TARIFF OF COSTS.

117. The Judge of the Supreme Court shall have the same authority to make general rules with respect to proceedings before the Referee and appeals from him as they have with respect to proceedings under *The Judicature Act*; and sections 122 to 125 of *The Judicature Act* shall apply thereto. R.S.O. 1897, c. 226, s. 111.

Judges of Supreme Court may make rules.
Rev. Stat. c. 51.

118.—(1) Subject to any such general rules the Referee shall have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for.

Referee may make rules.

(2) Such rules and tariffs, whether made by the Judges or the Referee, shall be published in the *Ontario Gazette* and shall thereupon have the force of law; and the same shall be laid before the Legislative Assembly at its next Session after promulgation thereof. R.S.O. 1897, c. 226, s. 112.

119. Until other provisions are made under the last two preceding sections the tariff of the County Court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the Referee shall have the power to fix counsel fees. R.S.O. 1897, c. 226, s. 113.

Tariff of County Court adopted until rules made.

120. Chapter 226 of The Revised Statutes of Ontario and all amendments thereto except the proviso to section 10 of the Act passed in the 6th year of His Majesty's reign and chaptered 37 are repealed.

Repeal.

SCHEDULE A.

FORM OF PETITION FOR DRAINAGE WORK.

(Section 4).

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of _____ in the county of _____ to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots _____ numbered _____

numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (*as the case may be, or describing the area by metes and bounds*), may be drained by means of:—

1. A drain or drains.
2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (*name or other general designation*).
3. Lowering the water of lake _____ or the pond known as (*name or other general designation*), (*or by any or all of said means.*)

And your petitioners will ever pray:—

57 V., c. 56, s. 4.

SCHEDULE B.

FORM OF BY-LAW.

(Section 23.)

A by-law to provide for drainage work in the _____ of _____ in the county of _____ and for borrowing on the credit of the municipality, the sum of _____ for completing the same (*or the sum of _____ the proportion to be contributed by said municipality for completing the same*).

Provisionally adopted the _____ day of _____ A.D. 19 _____

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property hereinafter set forth to be benefited by drainage work (*as the case may be*) have petitioned the council of the said _____ of _____ praying that (*here set out the purport of the petition, describing generally the lands and roads to be benefited*).

And whereas, thereupon the said council has procured an examination, to be made by _____, being a person competent for such purpose, of the said area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assessment under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by the said _____ and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which in his opinion will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the said assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of the said _____ in respect thereof, and of the said drainage work being as follows: (*here set out the report of the engineer or surveyor employed.*)

And whereas the said council are of opinion that the drainage of the area described is desirable:—

therefore

Therefore the said municipal council of the said of
, pursuant to the provisions of *The Municipal Drainage Act*, enacts as follows:—

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (or mayor) of the said may borrow on the credit of the corporation of the said of the sum of dollars, being the funds necessary for the work *not otherwise provided for* (or being said municipality's proportion of the funds necessary for the work), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within years from the date of the said debentures with interest at the rate of per centum per annum, that is to say: (*insert the manner of payment annually and whether with or without coupons and if the latter, omit the last clause of this paragraph*) such debentures to be payable at , and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$108), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for years, at the rate of per centum per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of benefit.	Value of outlet liability.	Value of injuring liability.	To cover interest for years at per cent.	Total special rate.	Annual assessment during each year for years.
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00				
10	S. 6	100	50 00	10 00				
10	N. 6	50	30 00	5 00				
10	S. W. 8	100	80 00	13 00				
10	S. W. & 9	150	150 00	20 00				
	N. 9							
10	4	200	.....	24 00				
10	S. 3	100	.....	13 00				
9	W. 5	100	.....		40 00			
9	N. 6	50	.....		25 00			
9	N. E. & 7	150	.....	.....	70 00			
	N. 7							
Total for benefit.			410 00	108 00	135 00			
" outlet.....			108 00					
" injuring.....			135 00					
Roads (and lands) of municipality.....			100 00					
Total.....			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for _____ years at the rate of _____ per centum per annum, a special rate on the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said _____ of _____ in each year for _____ years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the _____, newspaper, published in the town of _____ (or printed and served or mailed as described), and shall come into force upon and after the final passing thereof, and may be cited as the " _____ By-law."

R.S.O. 1897, c. 37, Sched. B; 6 Edw. VII., c. 37, s. 4.

CHAPTER 91.

An Act to amend The Municipal Light and
Heat Act.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. Section 9 of *The Municipal Light and Heat Act*, as Rev. Stat
amended by an Act passed in the 6th year of His Majesty's c. 234, s. 9
reign, Chaptered 39, is amended by adding thereto the follow-
ing subsection:

- (3) The Corporation may, from time to time, and upon Contracts for
such terms as in its discretion it thinks advis- supply of
able, enter into contracts for the supply of gas electricity,
or electricity, or other means of lighting or heat- etc., for
ing, to any person, individual or corporation for ten years.
a period not to exceed ten years.

CHAPTER 92.

An Act to amend the Local Municipal Telephone Act, 1908.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

8 Edw. VII.,
c. 49, s. 2,
amended.

1. Section 2 of *The Local Municipal Telephone Act, 1908*, is amended by adding thereto the following clauses:—

Meaning of
"Maintenance."

(d) "Maintenance" shall include not only the cost of repair and maintenance, but also the cost of switching and the use of switch boards contracted for by the initiating Municipality with any other Company or person and the cost of labour and superintendence and management of the system, including the extensions.

Meaning of
"cost of
construction,
etc., of
extension."

(e) "The cost of the construction, erection and installing of an extension" shall mean not only the cost of such construction, erection and installing, but also the cost of such improvement or strengthening of the original system, or any extension thereof, then in existence, as may be necessary or expedient by additional poles, wires, cross-arms, braces, pins, bolts and other appliances, and by such work or labour as may be deemed necessary or expedient by the initiating Municipality to enable it to give the subscribers for the extension efficient telephone service.

8 Edw. VII.,
c. 49, s. 11,
amended.

2. Section 11 of the said Act is amended by adding the following subsections:

Serving persons, not original subscribers.

(1a) The Council of the initiating Municipality may also by the by-law establishing the system or by any by-law or by-laws which may be passed from time to time, provide the terms on which persons who were not original subscribers may be entitled to become subscribers and to connection of their premises with the system.

Issue of debentures.

(1b) Such Council may also by any such by-laws passed from time to time authorize the issue of debentures, whether original or additional, to provide for the cost of any extensions of the system, such debentures to be payable by annual instalments within ten years from the date of issue, and shall by any such by-law impose and make provisions for levying, on the respective properties of subscribers with which connection

nection is to be made, an annual special rate sufficient to discharge the said debentures and the interest thereon as the same falls due.

(1c) All the debentures in this section mentioned shall be issued on the credit of the Municipality and the by-law authorizing their issue need not be submitted for the assent of the electors, and this section shall be deemed declaratory of the law on and from the 14th day of April, 1908.

Assent of electors not required.

3. Section 11 of *The Local Municipal Telephone Act, 1908*, is further amended by adding thereto the following subsections:—

8 Edw. VII., c. 49, s. 11, amended.

(4) The initiating municipality may make agreements with any bank or with any person or body corporate for temporary advances and loans for meeting the cost of the work until the completion thereof, and may then pass the necessary by-law authorizing the issue of debentures, out of the proceeds of which the amount of the temporary loans and advances shall be paid as a first charge, but the by-law for the issue of debentures shall be passed not later than two years after the initiating municipality shall have enacted the by-law for the establishment of the local telephone system, and the debentures under said by-law shall be issued within twelve months after the passing of such by-law.

Agreement with bank for advances.

(5) The provisions of sections 396, 397 and 399 of *The Consolidated Municipal Act, 1903*, shall be applicable to this Act, except that wherever in said sections the words "three months" shall appear, the words "one month" shall be substituted therefor.

Application of certain provisions of 3 Edw. VII., c. 19.

4. The said Act is amended by adding the following section:

8 Edw. VII., c. 49, amended.

11a. In the event of the share of the cost to each subscriber of the construction, erection and installing of any extension being less than the share of the cost to each subscriber of the construction, erection and installing of the original system, the initiating municipality may charge each subscriber for such extension the same annual amount, and for the like term of years, as was charged to each subscriber for the construction, erection and installing of the original system, and the difference between such last-mentioned amounts and the amount of the cost of the construction, erection and installing of the extension, shall be applied by the initiating municipality towards the cost of the maintenance of the original system, and any extension thereof (if any), and each subscriber for such extension shall pay the said annual amount to the initiating municipality during the said term of years.

Amount to be paid by subscribers for extensions.

CHAPTER 93.

An Act to amend The Municipal Water-works Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Rev. Stat., c.
235, s. 40,
sub. 5, re-
pealed.

1. Subsection 5 of section 40 of *The Municipal Water-works Act*, as enacted by section 24 of the Act passed in the second year of His Majesty's reign, Chaptered 12, is repealed and the following substituted therefor:—

Submission of
by-law to
increase
powers of
commis-
sioners.

(5) The Council of a city, town, township or village, with the assent of the electors qualified to vote on by-laws for the creation of debts, may by by-law provide that the commissioners elected or to be elected for the purposes of this Act shall have and possess the powers and shall perform the duties of commissioners under *The Municipal Light and Heat Act*, and under paragraphs 1a and 1b, of section 554 of *The Consolidated Municipal Act, 1903*, whether or not commissioners have been elected under either or both of the two last mentioned Acts and from and after the passing of such by-law any commissioners elected under either of the two last mentioned Acts shall cease to hold office and the commissioners elected or to be elected for the purposes of this Act shall be known as "the Water, Light and Sewer Commissioners of the of " and shall possess, enjoy and exercise all the rights, powers and privileges and shall perform all the duties of commissioners under *The Municipal Light and Heat Act*, and under paragraphs 1a and 1b, of section 554 of *The Consolidated Municipal Act, 1903*, as well as of commissioners elected under this Act.

Rev. Stat.,
c. 234;
3 Edw. VII.,
c. 19.

CHAPTER 94.

An Act to amend The Liquor License Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 33 of *The Liquor License Act*, is amended by striking out the words "shall not be sold in less quantities than one-half dozen bottles," and substituting therefor the words, "shall only be sold in original packages." Rev. Stat.,
c. 245, s. 33,
subs. 3,
amended.
Sale of
Mineral
Waters.

2. Subsection 4 of section 105 of *The Liquor License Act*, as enacted by section 24 of the Act passed in the ninth year of His Majesty's reign, chaptered 82, is amended by adding at the end thereof the words "but this subsection shall not be construed to confer any right of appeal which is not expressly given by this Act, and every appeal from a conviction or order made thereunder shall be taken, heard and determined in the manner provided by this Act and not otherwise." Rev. Stat.,
c. 245, s. 105,
subs. 4,
amended.
Appeals.

3. Section 34 of *The Liquor License Act* is amended by adding thereto the following subsection: Rev. Stat.,
c. 245, s. 34,
amended.

(3) In case the applicant for a wholesale license is not a resident of Ontario and has no permanent place of business in Ontario, it shall not be necessary to define the warehouse or other place in which the business is to be carried on. Non-resident
applicant
for wholesale
license.

4. Section 55 of *The Liquor License Act* is amended by inserting after the word "during" in the first line of clause (b) the words "Christmas Day or". Rev. Stat.,
c. 245, s. 55,
amended.
6 Edw. VII.,
c. 47, s. 13.
Liquor not to
be sold on
Christmas.

5. Section 125 of *The Liquor License Act* is amended by adding thereto the following subsection: Rev. Stat.,
c. 245, s. 125,
amended.
6 Edw. VII.,
c. 47, 33,
8 Edw. VII.,
c. 54, ss. 7, 8.

Notice to be
prima facie
evidence.

3a. The notices mentioned in the two preceding subsections shall be deemed *prima facie* evidence of the allegations therein set out.

6 Edw. VII.,
c. 47, s. 10.
Fee for
wholesale
license

6. Section 10 of the Act passed in the sixth year of His Majesty's reign, chaptered 47, is amended by striking out all words therein beginning with the words "for each wholesale license" down to and including the figures "\$350," and substituting therefor the words "for each wholesale license \$500."

CHAPTER 95.

An Act respecting the Manufacture and Sale
of Bread.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as *The Bread Sales Act*.

Short title.

2. In this Act "bake-shop" shall mean any building, prem-
ises, workshop, structure, room or place in which bread is
made for sale or sold.

Interpreta-
tion.
"Bakeshop."

3.—(1) Except as provided in subsection 2, no person
shall make bread for sale or sell or offer for sale bread except
in loaves weighing twenty-four ounces or forty-eight ounces
avoirdupois.

Weight of
bread.

(2) Small-bread may be made for sale, offered for sale and
sold in any weight not exceeding twelve ounces avoirdupois.

4. Every person making bread for sale shall keep in a con-
spicuous and convenient place in the bake-shop scales and
weights suitable for weighing bread and shall weigh the bread
offered for sale by him at the request of any person desiring
to purchase the same, and the Inspector may use such scales
at any time for the purpose of weighing bread found by him
in the bake-shop.

Scales and
weights in
bake-shop.

5. Every person who makes for sale or sells or offers for
sale bread in contravention of the preceding sections of
this Act, or who neglects to comply with the provisions of sec-
tion 4 of this Act shall, upon summary conviction, incur a
penalty not exceeding \$5.

Penalty
for making
bread, etc.,
contrary to
provisions
of Act.

Penalty
for using
deleterious
material.

6.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale or who knowingly sells or offers for sale any bread containing adulterant or deleterious material, shall, upon summary conviction, incur a penalty not exceeding \$25, and shall also be liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material, which may be used in the making of bread, shall be *prima facie* evidence of an offence against subsection 1 of this section.

Penalty for
interfering
with
inspector.

7. Every person who refuses the inspector admittance to his bake-shop or who interferes with the inspector in the performance of his duties shall, upon summary conviction, incur a penalty not exceeding \$10.

Appointment
of inspector.

8. The council of every city, town and village, shall, and the council of every township may, appoint an inspector for the purpose of enforcing the provisions of this Act.

Weighing of
bread by
inspector.

9. The inspector may at any time prior to delivery to a purchaser weigh any bread made or offered for sale and may take away any bread and cause the same to be tested for the purpose of discovering if any adulterant or deleterious material has been used in the making thereof, and may seize and remove any bread which does not comply with the provisions of this Act, and may dispose of any bread so seized or removed as the council may by by-law direct.

Duties of
inspector.

10. It shall be the duty of the inspector to see that the provisions of this Act are complied with, and he shall make a report quarterly to the council showing the prosecutions taken and the quantity of bread seized or tested under this Act.

When person
selling or
making light
weight bread
not liable to
penalties.

11. Where a loaf weighing less than the prescribed weight is found the person making or offering for sale or selling the same shall not be liable to the penalties prescribed by this Act for making or offering for sale or selling bread of short weight unless at least ten loaves are found at the same time, which in the aggregate are below the weight required by this Act, but any loaf found to be of short weight shall nevertheless be liable to seizure as hereinbefore provided.

Certificate
of analyst.

12. The certificate of the Analyst or Assistant Analyst of the Provincial Board of Health in writing, stating the result of any test made by him under the Act and purporting to be signed by him shall be *prima facie* evidence of the facts therein set forth, and shall be receivable without proof of the signature or of the official character of the person who appears to have signed the same in any prosecution under this Act.

13. The Act passed in the 8th year of His Majesty's ^{8 Edw. VII.} reign, chaptered 56, is repealed. <sub>c. 56
repealed.</sub>

14. This Act shall come into force on the 1st day of July, ^{Commence-} 1910. <sub>ment of
Act.</sub>

CHAPTER 96.

An Act respecting Juvenile Courts.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Juvenile
Courts.

7 and 8
Edw. VII.,
(Dom.) c. 40.

1. Every County or District Court Judges' Criminal Court and every Police Magistrate shall constitute a Juvenile Court within the meaning of *The Juvenile Delinquents Act, 1908*, by the Act passed by the Parliament of Canada at the Session held in the 7th and 8th years of His Majesty's reign, Chaptered 40.

Detention
homes.

6 Edw. VII.,
c. 59.

2. Every temporary home or shelter provided for children under section 6 of *The Children's Protection Act of Ontario* shall be a detention home within the meaning of the said *The Juvenile Delinquents Act, 1908*.

Agent of
Children's
Aid Society
to be pro-
bation officer.

3. Every agent of a Children's Aid Society formed under *The Children's Protection Act* shall be a probation officer within the meaning of the said *The Juvenile Delinquents Act, 1908*.

CHAPTER 97.

An Act to amend The Act for the Protection of
Sheep and to impose a Tax on Dogs.*Assented to 19th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Section 1 of *The Act for the Protection of Sheep* Rev. Stat.
c. 271, s. 1
amended. and to impose a Tax on Dogs is amended by striking out the words "subject to the provisions in the next following section" in the first line, and by striking out the words "and \$2 for a bitch" in the fourth line thereof and substituting Tax on dogs. therefor the words "if only one, and \$2 for each additional dog, owned, possessed or harboured by him, and \$3 for a bitch if only one, and \$5 for each additional bitch owned, possessed or harboured by him, but upon the production of Spayed
bitches. a certificate in writing of a veterinary surgeon that a bitch has been spayed, such bitch shall be taxed at the same rate as a dog."

2. Sections 2, 8 and 21 of the said Act are repealed.

Rev. Stat.
c. 271.
ss. 2, 8, 21
repealed.

3. Section 3 of the said Act is amended by striking out the words "within which a by-law has not been passed as provided in the preceding section" in the first and second lines thereof, and by striking out the last line of the said section and inserting in lieu thereof the words "the number of dogs, bitches, and spayed bitches, distinguishing them, by him owned or kept."

Rev. Stat.
c. 271, s. 3
amended.
Assessment
roll.

4. Section 4 of the said Act is amended by striking out the word "when" in the first line and substituting therefor the word "be" and by adding the word "to" after the word "assessors" in the second line thereof.

Rev. Stat.
c. 271
amended.

5. The said Act is amended by adding thereto the following section:—

Sheep
valuators—
appointment
and duties
of.

17a (1) The council of every township, town or village may at the first meeting in each year appoint one or more competent persons, to be known as Sheep Valuators, whose duty it shall be to inspect the injury done to sheep by dogs in cases where the owner or keeper of the dog or dogs committing the injury cannot be found, and the person aggrieved intends to make claim for compensation from the council of the municipality.

(2) The Sheep Valuator shall investigate the injury within forty-eight hours after notice thereof is given to him and shall forthwith make his report in writing to the Clerk of the Council, giving in detail the extent of injuries and amount of damage done, and the report shall be acted upon by the Council in adjusting the claim.

CHAPTER 98.

An Act respecting Steam Boilers.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as "*The Steam Boiler Act.*" Short title.

2. In this Act "steam boiler" shall mean a boiler used for generating steam for heating and power purposes, and every part thereof or thing connected therewith, and apparatus and things attached to or used in connection with any such boiler, but shall not include a boiler used for heating water for domestic purposes or a railway locomotive or steamboat boiler. Interpretation.
"Steam boiler."

3. Upon the recommendation of the Minister of Public Works the Lieutenant-Governor in Council may make such rules, regulations and specifications as may be deemed proper respecting the construction of steam boilers, including the materials to be used, the method of construction, the tests to be applied, the inspection of the boiler during its construction and before it is permitted to leave the place of construction, and generally such other matters as may secure a uniform standard of strength, safety and efficiency. Lieutenant-Governor to make regulations as to construction, etc., of steam boilers.

4. The rules, regulations and specifications shall be published in the *Ontario Gazette* and shall come into force and take effect at a date to be named by Proclamation. When to come into effect.

CHAPTER 99.

An Act to Prevent the Spread of Insect and Fungous Diseases Injurious to Vegetation.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- Short title.** **1.** This Act may be cited as *The Fruit Pests Act*.
- Interpretation.** **2.** In this Act
- "Minister," "Minister" shall mean the Minister of Agriculture for the Province of Ontario.
- "Plant," "Plant" shall mean any tree, vine, shrub or plant.
- "Disease," "Disease" shall mean the following insects and diseases in any stage of development: Codling Moth, San Jose Scale, Yellows, Little Peach, Black Knot, Pear Psylla and Pear Blight.
- Inspectors.** **3.** On the recommendation of the Minister, the Lieutenant-Governor in Council may appoint one or more competent persons to act as inspectors, whose duties shall be to enforce the provisions of this Act.
- Importing diseased plants prohibited.** **4.** No person shall import or bring, or cause to be imported or brought into the Province of Ontario, for any purpose whatsoever, any diseased plant or fruit.
- Keeping diseased plants.** **5.** No person shall keep or have, or offer for exchange or sale, any diseased plant.
- Destruction of diseased plants.** (a) All persons owning, leasing or managing any orchard or collection of plants, other than a nursery, shall, when any plant therein becomes dis-

eased

eased and forthwith on becoming aware, whether by notice or otherwise, of such disease, destroy such plant by fire or shall effectually treat the disease by fumigation or spraying with such material as may be prescribed by the Minister.

- (b) The council of any city, town, township or incorporated village may, and upon the petition of twenty-five or more fruit growers who are ratepayers, shall by by-law appoint at least one inspector to enforce the provisions of this Act in the municipality and fix the amount of remuneration, fees or charges he shall receive for the performance of his duties. All such appointments, as well as such remuneration, fees or charges shall be subject to, and be only operative on the written approval of the Minister, communicated by him to the clerk of the municipality. The by-law shall not take effect unless and until approved by the Minister of Agriculture, and shall remain in force only for the calendar year in which it is passed. The clerk of the municipality shall transmit a certified copy of every such by-law to the Minister of Agriculture before the first day of May after the passing thereof.
- (c) Upon the report of the inspector to the reeve or mayor that there is disease upon the plants on any lot within the municipality, the reeve or mayor shall direct the clerk to give notice personally by the inspector or by registered letter to the owner or occupant of the lot to have the plants forthwith sprayed, and in case the same are not sprayed within ten days, the inspector may cause the spraying to be done and the cost of the same shall be charged on the lot and be collected as a special tax in addition to the other taxes imposed by the municipal council on the lot.
- (d) All such inspectors appointed shall be subject to and observe the regulations and directions of the Minister, and shall be subject and subordinate to the inspector appointed by the Minister, and in case of any neglect of duty such inspector shall be subject to the penalties prescribed by this Act.
- (e) The council of the city, town, township or incorporated village shall pay the remuneration, fees or charges of such inspectors and shall be entitled to receive

Appointment
of inspectors
by municip-
ality.

Notice to
owner or
occupant.

Inspectors
to obey
regulations.

Remuneration
of municipal
inspectors.

receive from the Department of Agriculture one-half of the amount so paid upon furnishing the Department with statements of the sums so paid, certified to by the inspector appointed by the Minister, provided that such statements are submitted to the Minister on or before the fifteenth day of December of the year to which they apply.

Nurseryman
to fumigate
plants.

6. The owner or proprietor of any nursery shall not send out or permit any plant to be removed from his nursery without the same being first fumigated by hydrocyanic acid gas in accordance with regulations prescribed by Order of the Lieutenant-Governor in Council.

Plants not
to be sold
until
fumigated.

7. No person shall sell or dispose of or offer for sale any plant obtained, taken or sent out from a nursery unless the said plant has been previously fumigated by hydrocyanic acid gas in accordance with the above regulations.

Plants not
to be
removed from
nursery where
disease
exists.

8. In case the inspector finds disease in any nursery, and so reports to the Minister, the Minister may thereupon inform in writing the owner or proprietor or manager of said nursery of the existence of disease in his nursery, and the owner or proprietor or manager of said nursery shall not thereafter permit any plant or plants to be removed from the said nursery until he is notified in writing from the Minister that the inspector has reported to the Minister that it is safe in the public interest to permit the said nursery stock to be removed after fumigation.

Exception for
scientific
purposes.

9. For the purpose of scientific investigation the Minister may from time to time, by writing given under his hand, except such persons as he may deem proper from the operation of the two preceding sections, and while acting under such permission such persons shall not be subject to the penalties imposed by this Act.

Owner of
diseased
plant to
notify the
Minister.

10. Any person having reason to suspect that any plant in his possession or in his charge or keeping is diseased shall forthwith communicate with the Minister in regard to the same, and shall furnish the Minister with all such information in regard to the source or origin of the said infestation and nature of the same as he may be able to give.

Examination
of diseased
plants and
destruction
by burning.

11.—(a) Whenever disease exists or is supposed to exist on any plant, the Minister may direct a competent person to make an examination and inspection, and may order that any plant so infested, or such part as he may deem advisable, shall be immediately destroyed by burning, either by the person appointed to make the inspection or by the person owning or

having

having possession of the said plant, or some other person so directed in writing, and the person so directed shall make a full report to the Minister in writing as to the nature and extent of the work so performed, together with a fair estimate of the value of the plants destroyed.

(b) If, in the case of an orchard or collection of plants, the inspector finds disease on plants located in several different parts of the orchard or collection, and decides that it is advisable in the public interest to destroy all the plants in such orchard, or in any part or parts thereof, and so reports to the Minister, the Minister may direct that an examination or inspection shall be made by an additional inspector and upon their advice in writing he may direct that all the plants in such orchard or such collection of plants or in such part or parts thereof shall be destroyed without requiring that every plant in the said orchard or collection shall be first examined.

Where disease found in several parts of orchard or collection.

12. Any person appointed under section 3 of this Act to inspect or destroy any plant for the purpose of enforcing the provisions of the Act, and any inspector appointed by the Council of any municipality, shall, upon producing his authority in writing, have free access to any nursery, orchard, store-room, or other place where it is known or suspected that any plant is kept.

Free access for inspectors, etc.

13. Any person neglecting to carry out the provisions of this Act, or any person offering any hindrance to the carrying out of this Act, shall upon summary conviction be liable to a fine of not less than twenty dollars nor more than one hundred dollars, together with costs, and in default of payment thereof shall be subject to imprisonment in the common gaol for a period of not less than ten days nor more than thirty days.

Penalty.

14. The Lieutenant-Governor in Council may, by Order, direct that other diseases than those mentioned may be included in the provisions of this Act, and thereafter during the continuance of such Order-in-Council the word "disease" in this Act shall include all such other diseases. Public notice of such Order-in-Council shall be given by publication in two successive issues of "The Ontario Gazette."

Including other diseases.

15. The Acts known as *The Yellows and Black Knot Act*, *The Noxious Insects Act*, and *The San Jose Scale Act* are hereby repealed.

Repeal of Rev. Stat. c. 280, etc.

CHAPTER 100.

An Act to amend The Ditches and Watercourses Act

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Rev. Stat. c. 285
amended,
s. 5, subs. 2.

Limit of cost
of ditch.

1. Subsection 2 of section 5 of *The Ditches and Watercourses Act* is amended by striking out the figures "\$1,000" in the 3rd line and inserting in lieu thereof the figures "\$1,500."

CHAPTER 101.

An Act to amend The Ontario Game and Fisheries Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Clause (d) of subsection 1 of section 11 of *The Ontario Game and Fisheries Act* is amended by striking out the word “September” in the second and third lines and substituting therefor the word “October”; and by striking out the word “December” in the third line, and substituting therefor the word “November.”

7 Edw. VII. c. 49, s. 11, subs. 1, amended.
Close season for grouse, pheasants, partridge, etc

(2) Clause (e) of the said subsection is amended by striking out the figure “1st” in the second line and substituting therefor the figures “15th.”

Quail, wild turkey, squrels, etc.

(3) Clause (f) of the said subsection is amended by striking out the figures “30th” in the second line and substituting therefor the figures “15th.”

Swans and geese.

(4) Clause (g) of the said subsection is amended by striking out the figures “1st” and “31st” in the second line and substituting therefor the figures “15th” and “15th” respectively.

Duck.

(5) Clause (i) of the said subsection is amended by striking out the figures “1909” in the last line thereof and substituting therefor the figures “1915.”

Capercaillie.

(6) Clause (j) of the said subsection is amended by striking out the figures “31st” in the second line and substituting therefor the figures “15th.”

Hares.

(7) Subsection 2 of the said section is amended by adding thereto the following words, “provided that any of these

Cotton-tail rabbits.

animals

animals killed under this subsection shall be handed over to the nearest officer of the Department for distribution to charitable institutions."

7 Edw. VII.
c. 49, s. 12,
amended.

Beaver and
otter.

2.—(1) Subsection 1 of section 12 of the said Act is amended by striking out the figures "1910" in the third line and substituting therefor the figures "1915."

Muskrats and
mink.

(2) Subsection 2 of the said section is amended by inserting the words "mink or" after the word "no" in the first line thereof.

7 Edw. VII.
c. 49, ss.
14, 48
amended.

Deer.

3. Subsection 3 of section 14 is amended by striking out the words "in all" in the second line, and by striking out the word "two" in the same line, and substituting therefor the word "one" and by inserting after the word "which" in the fifth line the word "may," and by striking out the word "two" in the last line and substituting therefor the word "one," and clause (d) of subsection 2 of section 48 is amended by striking out the words "two shipping coupons" in the second line and substituting therefor the words "one shipping coupon."

7 Edw. VII.
c. 49, s. 15,
amended.

Decoys.

4. Subsection 3 of section 15 of the said Act is amended by adding thereto the following words, "or water lying bounding private property, and all decoys shall be removed from the water during prohibited hours for shooting."

7 Edw. VII.
c. 49, s. 45,
amended.

Non-resident
exporting
deer.

7 Edw. VII.
c. 49, s. 45,
amended.

5. Subsection 1 of section 45 of the said Act is amended by inserting in the seventh line after the word "one" the words "deer, one," and by striking out the words "two deer" in the same line thereof.

Non-resident
Licenses.

6. Subsection 1 of section 48 of the said Act is amended by adding thereto the following clause:—

"(d) Authorizing persons not residents of the Province of Ontario to hunt and trap fur-bearing animals therein. The fee for such license shall be \$10."

CHAPTER 102.

Assented to 19th March, 1910.

An Act to amend the Department of
Education Act.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Section 6 of *The Department of Education Act* is
amended by adding the following subsections:

9 Edw. VII.,
c. 88, s. 6
amended.

(2) The Minister shall so divide the sums appropriated for the purposes mentioned in clauses (d) and (g) of subsection 1, that out of each of them there shall be allotted to the Separate Schools a sum which bears the same ratio to the whole sum appropriated as the average number of pupils who attended such schools during the next preceding calendar year bears to the whole average number of pupils who attended both Public and Separate Schools during that year and that the residue shall be allotted to the Public Schools, and, subject to the regulations, shall apportion among the Public Schools the sums so allotted to them, and among the Separate Schools the sums so allotted to them on the respective bases mentioned in clauses (d) and (g).

Distribution
of legislative
grant between
public and
separate
schools.

(3) All moneys appropriated for any of the following purposes mentioned in clauses (L) of subsection 1, that is to say:

(a) Fifth Classes;

(b) Manual Training, Household Science, Art and Agricultural Departments;

(c) School Gardens;

(d) Kindergartens;

(e)

(e) Night Schools;

(f) Free Text Books;

(g) Other educational purposes not specially mentioned in clause (e);

which are applied for the purposes of primary education, shall be allotted, divided and apportioned as provided by subsection 2.

(4) Primary education for the purposes of subsection 3, shall mean education in the Public or Separate Schools.

(5) Any part of the sums appropriated for the purposes mentioned in subsections 2 and 3, and allotted to the Public Schools, as provided by subsection 2, which shall not be required to pay the amounts to which such schools shall be entitled on the respective bases mentioned in clauses (d) and (g) of subsection 1, shall lapse and become part of The Consolidated Revenue Fund, and in like manner any part of the sums allotted to the Separate Schools which shall not be required to pay the amounts to which such schools shall be entitled on the respective bases mentioned in clauses (d) and (g) of subsection 1, shall lapse and become part of The Consolidated Revenue Fund.

CHAPTER 103.

An Act respecting certain Public School Matters in the City of Toronto.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Where territory forming part of a union school section has been heretofore or is hereafter annexed to the City of Toronto, such territory shall for all school purposes be deemed to be part of the City.

Annexation of part of union school section to Toronto.

(2) The corporation of the City and the corporation of the municipality or the corporations of each of the municipalities from which such territory is taken may agree upon the valuation and adjustment of the rights and claims of all parties affected by the annexation, and in default of agreement each corporation may appoint an arbitrator who with the Judge of the County Court of the County of York shall value and adjust such rights and claims in an equitable manner.

Agreement between municipal corporations.

Arbitration in case of disagreement.

(3) The award shall be final and conclusive, and any money found due, either by agreement or under the award shall be deemed Public School moneys, and shall be payable out of the property taxable for Public School purposes in that part of the section situate within the indebted municipality.

Award to be final.

(4) Section 44 of *The Public Schools Act* shall not apply to money required to be raised under this section, and debentures may be issued to be payable out of the property so taxable without the sanction of the electors, and upon the terms and conditions set forth in a by-law of the municipality.

9 Edw. VII., c. 89, s. 44 not to apply.

(5) That part of the union school section not included in the territory so annexed shall constitute a union school section or a school section, and the school corporation shall continue, and the trustees who are in office at the time of the annexation shall continue in office until their successors are elected.

Part of union section not annexed.

Dissolving or
altering
boundaries
of section.

(6) At any time after the annexation proceedings may be taken for dissolving or altering the boundaries of the section in the manner provided by *The Public Schools Act*.

9 Edw. VII.,
c. 89,
application
of section.

(7) This section shall apply and take effect notwithstanding that proceedings may have been begun or are pending or have been disposed of under any provision of *The Public Schools Act*.

Public school
sites in
annexed
territory
vested in
Board of
Education.

2.—(1) The Public School houses, school sites and premises situate within territory heretofore or hereafter annexed to the City of Toronto shall, from the date of such annexation, be deemed to have been and to be vested in the Board of Education for the City of Toronto without any further conveyance.

List of
lands so
vested.

(2) The Secretary of the Board forthwith after the passing of this Act shall prepare a list of the lands already so vested, describing them sufficiently for purposes of registration, and the Chairman and Secretary shall sign the same.

Registrar or
Master of
Titles to
write lots
in abstract
index or
land titles
register.

(3) The Secretary shall forthwith deliver the list to the Registrar of the proper registry division or to the Master of Titles, and the Registrar or Master of Titles, as the case may be, shall thereupon enter in the abstract index or land titles register opposite each parcel of land the words, "Vested in the Board of Education of the City of Toronto by virtue of 10 Edward VII., Chapter —, section —, A.B. Registrar (or Master of Titles)", or shall make such other entry or entries as may be required.

Lands which
are hereafter
vested in
Board.

(4) The like proceedings shall be taken with respect to any land which hereafter becomes vested in the Board by virtue of this section as soon as possible after the annexation of the territory in which the land so vested is situate.

CHAPTER 104.

An Act to amend The High Schools Act.

Assented to 19th March, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The High Schools Act* is amended by adding thereto the following subsections:—

9 Edw. VII.,
c. 91,
amended.

(2) The board of a High School situated in a city, town or village, in a district without county organization may by resolution provide that the pupils of any municipality in such district shall have the right to attend said High School on the same terms as the pupils living in the city, town or village in which the High School is situated, on the condition that the council of such municipality pay to said High School Board the pro rata cost of the maintenance of such High School, according to the number of pupils in attendance thereat from such municipality.

Admission
of non-resi-
dent pupils in
unorganized
territory.

(3) The council of any municipality in respect to which a resolution has been passed by a High School Board under subsection 2, may by By-Law provide for the raising of the necessary moneys and the payment of the same to said High School Board, in accordance with such resolution, and thereupon such council shall be entitled to appoint a trustee to said Board in addition to the other members of the Board provided for by this Act.

Election of
trustee by
municipality.

(4) A trustee appointed under subsection 3 shall hold office for three years, and until his successor has been duly appointed, and shall have all the rights, powers, and privileges of other members of the Board, with the exception that he shall not be entitled to vote on any matter relating to capital expenditure for lands, buildings or permanent improvements not contributed to by the municipality appointing him.

Term of
office of
trustee.

CHAPTER 105.

An Act respecting Industrial Schools.

Assented to 19th March, 1910.

SHORT TITLE, s. 1.	PAROLE IN THREE YEARS, s. 17.
INTERPRETATION, s. 2.	Rights of a board on return of child to school, s. 17 (2).
ESTABLISHMENT BY SCHOOL BOARD, s. 3.	Supervision after leaving school, s. 17 (3).
DELEGATION OF POWERS TO SOCIETY, s. 4.	PERSONS COMMITTED TO REMAIN UNDER GUARDIANSHIP TILL 21, s. 18.
SOCIETIES MAY BORROW ON DEBENTURES, s. 5.	TRANSFER OF CHILD FROM ONE SCHOOL TO ANOTHER, s. 19.
AID FROM SCHOOL BOARDS, s. 6.	VISITS BY CLERGYMAN, s. 20.
GUARANTEE OF DEBENTURES BY CITIES AND TOWNS, s. 7.	CHILDREN MAY RESIDE WITH RESPECTABLE PERSONS, s. 21.
RELIGIOUS CORPORATIONS EMPOWERED TO GRANT OR LEASE LANDS, s. 8.	WHAT SHALL BE DEEMED ESCAPE FROM SCHOOL, s. 22.
APPOINTMENT OF TEACHERS AND GENERAL SUPERINTENDENT, s. 9.	APPREHENSION ON ESCAPE OR ABSENCE, s. 23.
CERTAIN CHILDREN UNDER SIXTEEN MAY BE BROUGHT BEFORE MAGISTRATE, s. 10.	Aiding or abetting escape, s. 23 (2).
Magistrate to enquire into facts, s. 10 (2).	MUNICIPALITY LIABLE FOR MAINTENANCE, s. 24.
Hearing in private, s. 10 (3).	CHILDREN FROM UNORGANIZED TERRITORY, s. 25.
Magistrate may order child to school, s. 10 (4).	POWER TO ORDER PARENT, ETC., TO MAINTAIN CHILD, s. 26.
CHILD UNDER SIXTEEN MAY BE SENT TO INDUSTRIAL SCHOOL, s. 11.	RULES OF MANAGEMENT, s. 27.
INSPECTOR MAY SEND CHILD TO SCHOOL, s. 12.	PROVISIONAL GRANT IN AID, s. 28.
ROMAN CATHOLIC CHILDREN, s. 13.	PENALTY IN CASE OF FALSE RETURN, s. 29.
TRANSPORTATION OF CHILDREN TO SCHOOL, s. 14.	INSPECTION OF SCHOOLS RECEIVING PUBLIC AID, s. 30.
PARTICULARS TO BE SET OUT IN ORDER, s. 15.	INSPECTION BY PUBLIC SCHOOL INSPECTOR, s. 31.
DEPOSITIONS TO BE DELIVERED TO PERSON EXECUTING WARRANT, s. 16.	By Separate School Inspector, s. 31 (2).
	Limit of Powers and Duties of Inspectors, s. 31 (3).
	REPEAL, s. 32.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Industrial Schools Act.*"
R.S.O. 1897, c. 234, s. 1.

304

2. In this Act,

Interpreta-
tion.

"Board of public school trustees" shall include a board of education. "Board of Public School Trustees."

"Industrial school" shall mean a school in which industrial training is provided, and in which children are lodged, clothed and fed, as well as taught, and which has been certified by the Minister under section 3 of this Act. "Industrial School."

"Industrial school board" shall mean and include a board of education, a board of public school trustees, a board of separate school trustees, a board of management, or any other body having control of an industrial school. "Industrial School Board."

"Inspector" shall mean Superintendent of neglected and dependent children or such other officer as may be designated by the Lieutenant-Governor in Council. 8 Edw. VII., c. 59, s. 2, (c), (m). "Inspector."

"Judge" shall include a Judge of the High Court, a Judge of a County or District Court, a Police Magistrate and a Justice of the Peace. "Judge."

"Minister" shall mean the Provincial Secretary of Ontario or other member of the Executive Council charged by the Lieutenant-Governor in Council with the administration of this Act. R.S.O. 1897, c. 304, s. 2 (4), (but see 8 Edw. VII., c. 59, s. 2 (g)). "Minister."

"Municipality" shall mean and include a city, county or a town separated from the county for municipal purposes, and a town having a population of 5,000 or over in a provisional judicial district. 8 Edw. VII. c. 59, s. 2 (h). "Municipality."

"Philanthropic society" shall mean a society approved by the Lieutenant-Governor in Council for the purposes of this Act. R.S.O. 1897, c. 304, s. 2 (1, 2, 3). "Philanthropic Society."

3.—(1) The board of public school trustees or the board of separate school trustees of any city or town may acquire by purchase, lease or otherwise such real and personal property, and may erect, equip and maintain such buildings as they may deem necessary or proper for the purposes of an industrial school, and may establish, control and manage an industrial school. Establishment by school board.

(2) The board shall cause notice of the establishment of the school to be given to the Inspector, who shall report thereon to the Minister. Notice to Minister.

Certificate by
Minister.

(3) If the Inspector reports in favour of such action the Minister may, in writing under his hand, certify that the school is a fit and proper one for the reception of children to be sent there, and the school shall thereupon be deemed a certified industrial school for the purposes of this Act. R.S.O. 1897, c. 304, s. 3.

Delegation of
powers to
society.

4.—(1) Any board of school trustees may delegate the powers, rights and privileges, conferred upon it by this Act, respecting the establishment, control and management of an industrial school to any philanthropic society.

Application of
Act to society.

(2) Thereafter this Act shall apply to the philanthropic society as fully as to the said board.

Representation
of school
boards on
board of
management.

(3) The chairman and secretary of the board of public school trustees of the city or town in which the industrial school is situated, or under whose control it is placed, and the chief public school inspector of the city or town, shall be members of the board of management of the society when acting under powers delegated by the board of public school trustees.

Representation
of separate
school board.

(4) The chairman and secretary of the separate school board shall be members of the board of management of a society acting under powers delegated by the separate school board. R.S.O. 1897, c. 304, s. 5 (1).

Societies
may borrow
on debentures.

5.—(1) A philanthropic society to which the powers of a school board have been delegated, in addition to any powers which it may possess as to raising money on the security of its property, may borrow money on debentures to an amount not exceeding two-thirds of the value of the real and personal property owned by such society, and such debentures shall be a charge upon the real and personal property of the society.

Registration
of certificate of
debentures.

(2) A certificate of the number and amount of such debentures as they are issued under the seal of the society and signature of the president or secretary, shall be filed in the proper registry office or land titles office, and shall be open to inspection on payment of 10 cents. R.S.O. 1897, c. 304, s. 6.

Aid to indus-
trial schools,
from school
boards.

6. A school board authorized to establish an industrial school and the council of any municipality may grant aid to any industrial school in the same manner as to other schools, notwithstanding that such school does not lie within the municipality wherein such school board or council has jurisdiction. R.S.O. 1897, c. 304, s. 7.

7.—(1) The council of the city or town may by by-law guarantee any debentures issued for industrial school purposes to the amount authorized by section 5 of this Act.

Authorizing corporations of cities and towns guarantee to debentures issued, for industrial school purposes.

(2) Any debenture debt guaranteed by a municipal corporation under this section which has been incurred by the board of public school trustees or a philanthropic society acting under powers derived from such board shall be a liability of the supporters of public schools, and any debt incurred by the board of separate school trustees or by a philanthropic society acting under powers derived from a separate school board shall be a liability of the supporters of separate schools. R.S.O. 1897, c. 304, s. 8.

Debentures issued for public industrial schools to be supported by public school moneys.

8. Any religious corporation may set apart and grant or lease for a nominal consideration, or otherwise for industrial school purposes, any land which it has a general power to dispose of for religious, charitable or educational purposes, without being deemed guilty of a breach of trust. R.S.O. 1897, c. 304, s. 9.

Religious corporations empowered to grant or lease lands to industrial schools.

9.—(1) A school board which has delegated its power to establish an industrial school shall provide the teachers necessary for the school, and the general superintendent shall, when practicable, be selected from the teachers so appointed.

Appointment of teachers and general superintendent.

(2) In lieu of providing such teachers, the school board may annually pay a *per capita* allowance to the industrial school board for each child taught, but such allowance shall not be less than the average cost *per capita* for each child attending the industrial school in the then next preceding year.

School boards may pay a *per capita* allowance instead of furnishing teachers.

(3) Where the school board adopts such plan of payment, the power of hiring and discharging teachers shall vest in the industrial school board. R.S.O. 1897, c. 304, s. 10.

When industrial school board to provide teachers.

10.—(1) Any person may bring before a Judge any child apparently under the age of sixteen years, who:

Certain children under sixteen may be brought before Police Magistrate or Justices.

- (a) Is found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms;
- (b) Is found wandering, and has not any home or settled place of abode or proper guardianship;
- (c) Is found destitute, either being an orphan or having a surviving parent who is undergoing imprisonment;
- (d) Is an habitual truant and whose parent or teacher represents that he is unable to control the child; (New).

(c)

(e) Is, by reason of the neglect, drunkenness or other vices of his parents, suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life;

(f) Has been accused or found guilty of petty crime. R.S.O. 1897, c. 304, s. 11 (1).

Magistrate to inquire into truth of facts charged.

(2) No formal information shall be requisite, but the Judge shall have the child brought before him, and shall, in the presence of the child, take evidence in writing under oath of the facts charged, and shall make reasonable inquiry into the truth thereof. R.S.O. 1897, c. 304, s. 11 (2).

Hearing in private.

(3) The Judge shall hear all cases coming before him under this section in private.

Magistrate may order child to school; requisites of the order.

(4) If the Judge is satisfied on inquiry that it is expedient to deal with the child under this Act, instead of committing him to a gaol or reformatory he shall make his order in writing that the child be sent to an industrial school. R.S.O. 1897, c. 304, s. 11, *part amended*.

Child under 16 may be sent to industrial school.

11. Where under the authority of any statute of the Province, or of any other statute or law of Canada, any person is convicted of an offence punishable by imprisonment, and the Judge before whom he is convicted is of opinion that such offender is under the age of sixteen years, the Judge may make the order provided for in the next preceding section. R.S.O. 1897, c. 304, s. 14 (1).

Inspector may send child to school. 8 Edw. VII, c. 59.

12. The Inspector may by his order in writing direct that a child who has been placed in a foster home under the provisions of *The Children's Protection Act* shall be sent to an industrial school. (*New.*)

Roman Catholic children.

13. The Judge or Inspector shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, as far as practicable, send a Roman Catholic child to a Roman Catholic industrial school, and a child of any other religious persuasion to a school established by and with the sanction of a board of public school trustees. R.S.O. 1897, c. 304, s. 17, *part*.

Transportation of children to school.

14. Every child sent to an industrial school shall where practicable be taken to the school by an agent or member of a Children's Aid Society, and the actual expense incurred in so doing shall be borne by the municipality liable for maintenance. (*New.*)

15. The Judge or Inspector shall in his order designate the school to which the child is to be sent and the person in whose custody he is to be conveyed to the school, and shall, where practicable, state the name, age and parentage of the child, his religious persuasion, and the municipality liable for his maintenance.

Particulars to be set out in order.

16. The Judge or Inspector shall deliver to the person having the execution of the order, the depositions taken by him, or a certified copy thereof, which depositions or copy shall be delivered to the general superintendent or officer receiving the child into the industrial school. R.S.O. 1897, c. 304, s. 23, *part*.

Depositions to be delivered to person executing warrant.

17.—(1) Every child sent to an industrial school shall, within three years from the date of the order, be given over to the custody of his or her parents or be apprenticed or placed out in a foster home as the industrial school board may deem advisable.

Parole in three years.

(2) After a child has been given over to the custody of his or her parents or has been apprenticed or placed out in a foster home, the general superintendent of the school, with the approval of the Inspector, may if he deems it necessary in the interest of such child, cause the child to be returned to the school and thereafter the Industrial School Board shall have the right to collect the amount for maintenance directed to be paid when such child was committed.

Rights of a Board on return of child to school.

(3) An industrial school board shall exercise and maintain supervision over every child committed to its guardianship after leaving the school and shall keep such records and provide for such visits as may be prescribed by the Inspector.

Supervision after leaving school.

18. Subject to the provisions of section 19, every child committed to an industrial school shall remain under the guardianship of the industrial school board, and it shall possess and exercise all the rights and powers of a parent in regard to such child until he shall attain the age of 21 years. R.S.O. 1897, c. 304, s. 24, *amended*.

Persons committed to remain under guardianship until 21 years old.

19. The Minister may at any time order that a child be transferred from one industrial school to another, or may order that a child be discharged from an industrial school either absolutely or on such conditions as he may think fit, and the child shall be transferred or discharged accordingly. R.S.O. 1897, c. 304, s. 21.

Transfer of child from one school to another.

Visits by
clergymen.

20. A clergyman of the religious persuasion to which a child appears to belong may visit the child at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by regulations of the Minister. R.S.O. 1897, c. 304, s. 18.

Children may
reside with
respectable
persons.

21.—(1) An Industrial School Board may permit a child sent to the industrial school to live at the dwelling of any trustworthy and respectable person; but the control of such board over the child shall not thereby be abated or diminished, nor the liability of any municipality for the maintenance of such child increased. R.S.O. 1897, c. 304, s. 19 (1), *part*.

What shall be
deemed escape
from school.

22. If the child leaves the person with whom he is placed, without the permission of the Industrial School Board or refuses to return to the school, he shall be deemed to have escaped from the school. R.S.O. 1897, c. 304, s. 31.

Apprehension
on escape or
absence.

23.—(1) If a child sent to an industrial school escapes from the school or neglects to attend thereat, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and may be brought back to the school, there to be detained during the period equal to so much of his period of detention as remained unexpired at the time of his escape. R.S.O. 1897, c. 304, s. 32.

Aiding or
abetting
escape.

(2) Every person who aids or abets any child in such escape shall incur a penalty not exceeding \$25, to be recoverable upon summary conviction before a Police Magistrate or two Justices of the Peace.

Municipality
liable for
maintenance.

24. Where the maintenance of a child is not otherwise fully provided for, the municipality in which the child resided for one year last preceding his admission to the school shall pay the sum of \$1.25 per week towards the expenses of maintenance. R.S.O. 1897, c. 304, s. 30 (3), *amended*.

Children from
unorganized
territory.

25. The Treasury of Ontario shall pay towards the maintenance of every child sent to an industrial school from a provisional judicial district, for whose maintenance a city or town is not liable, the sum of 43 cents for each day's actual stay of the child in the school.

Power to
order parent,
etc., to
maintain a
child.

26.—(1) On the complaint of an Industrial School Board or of a municipal corporation liable to contribute to the maintenance of a child in an industrial school, the Judge of the Division Court of the division in which the parent, step-parent or guardian of the child resides, may, summon the

parent

parent, step-parent or guardian before him and may examine into his ability to maintain the child; and the Judge may, if he thinks fit, order the parent, step-parent or guardian to pay to the Industrial School Board or municipality such weekly sum, not exceeding \$1.25 per week, as to the Judge seems reasonable, during the whole or any part of the time during which the child is liable to be detained in the school; and the said order shall for all purposes be a judgment of the Division Court. R.S.O. 1897, c. 304, s. 27.

(2) On the application either of the parent, step-parent or guardian, or of the Industrial School Board or municipality, after fourteen days' notice of the application has been given to the other party, the Judge making such order, or any other Judge holding the Division Court, may from time to time vary the same. R.S.O. 1897, c. 234, s. 28. Varying the order for maintenance.

27. Every Industrial School Board may make rules for the management and discipline of the industrial school established by it, but such rules shall not take effect until approved in writing by the Inspector. R.S.O. 1897, c. 304, s. 26, *amended*. Rules of management.

28.—(1) The sum of twenty-five cents for each day's actual stay of a pupil in an industrial school complying with the requirements shall be paid quarterly by the Treasurer of Ontario to the Industrial School Board out of any moneys appropriated by the Legislature for that purpose. Provisional grant in aid.

(2) In calculating the amount of aid to be so given, the day of departure of any pupil from such institution shall be included. R.S.O. 1897, c. 304, s. 39. How amount to be calculated.

(3) The moneys payable under this section shall be paid by the Treasurer upon the report of the Inspector approved by the Minister. How grant to be payable.

29. Any person who knowingly and wilfully makes, or is a party to, or procures to be made, directly or indirectly, any false statement in a return required by or under the authority of this Act, shall incur a penalty of \$500 to be payable to the Treasurer of Ontario, and to be recoverable only at the suit of the Crown. R.S.O. 1897, c. 304, s. 40. Penalty in case of false return.

INSPECTION OF INDUSTRIAL SCHOOLS.

30. The Inspector shall have the right to inspect every institution receiving aid under this Act, and shall from time to time report on the general management and efficiency of the work carried on. Inspection of schools receiving public aid.

Inspection by
public school
inspector.

31.—(1) When required by the Public School Board, the Inspector of Public Schools for the city or town shall visit and inspect any industrial school established by such Board or by a philanthropic society to which it has delegated its powers, for the purpose of reporting upon the efficiency of its teachers and the progress of the pupils in any of the branches of the school work coming within those prescribed by the Regulations of the Department of Education for public schools.

By separate
school
inspector.

(2) An Inspector of Separate Schools upon the request of a separate school board may visit, inspect and report in like manner upon a Roman Catholic Industrial School established by such Board or by a philanthropic society to which it has delegated its powers.

Limit of
powers and
duties of
Inspectors.

(3) Save as aforesaid the Inspector of Public Schools and the Inspector of Separate Schools shall not be called upon to perform any duty and shall not possess any powers with respect to Industrial Schools.

Rev. Stat.
c. 304 and
amendments
repealed.

32. Chapter 304 of The Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

CHAPTER 106.

An Act to amend The Act respecting the Property
of Religious Institutions.*Assented to 7th March, 1910.*

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. *The Act respecting the Property of Religious Institutions* as amended by section 2 of *The Statute Law Amendment Act, 1909*, is further amended by adding thereto the following sections:—

Rev. Stat.,
c. 307,
amended.

14a. Where land is held by trustees for the use of a congregation or religious body and a separate congregation or religious body is formed therefrom, the trustees for the time being may convey to the trustees of such separate congregation or religious body such part of the land as is no longer required for the use of the congregation or religious body for the use of which it is so held, but no such conveyance shall be made unless or until the assent thereto of such last mentioned congregation or religious body has been first obtained, or the conveyance is sanctioned in the manner provided by section 15.

Conveyance
to trustees
of new con-
gregation.

14b. Every conveyance heretofore executed to any such separate congregation or religious body and so assented to or sanctioned shall be as valid and binding as if the next preceding section had been in force at the time such assent or sanction was given and such conveyance was executed, but this section shall not apply to a conveyance which is in question in a pending action or has been determined to be invalid, or affect any adverse right or title acquired before the passing of this Act.

As to such
conveyance
heretofore
executed.

CHAPTER 107.

An Act respecting the Town of Barrie.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Municipal Corporation of the Town of Barrie has by its petition represented that, desiring to promote and encourage the establishment of industries in the said Town, and with that object in view, it entered into an agreement, bearing date the 19th day of April, 1909, with Simon Dymont, Edward C. Hill and William Thompson, and a certain other agreement connected with said recited agreement, bearing date the 15th day of November, 1909, with The Canada Producer and Gas Engine Company, Limited, and passed a By-law, No. 662, based upon said agreements, by which the said Corporation, amongst other things, undertook and agreed, subject to obtaining the assent of the Legislature thereto, to exempt all the property of the said Company in the Town from all taxations and assessments, except for school purposes, for a period of twenty years, and that for a like period that school taxes should only be levied upon a fixed assessment of said property at the sum of \$20,000; the said agreements and By-law being set out in full as Schedules "A," "B," and "C," respectively, to this Act; and whereas the said by-law was submitted to the qualified ratepayers on the 17th day of May, 1909, when out of 1,383 ratepayers entitled to vote 981 voted for the by-law and 80 against the same; and whereas the said Corporation has by its said petition prayed that an Act may be passed to confirm and validate the said agreements and By-law, and it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Certain Agreements and By-law No. 662 confirmed.

1. The said agreements set out as Schedules "A" and "B" hereto, and the By-law of the Municipal Corporation of the Town of Barrie, No. 662, set out as Schedule "C" hereto, are confirmed and declared to be legal, valid and binding upon the said Corporation and the ratepayers thereof and the parties to the said agreement.

SCHEDULE "A."

SCHEDULE "A."

Memorandum of Agreement made in Triplicate the 19th day of April, A.D. 1909.

Between:

The Municipal Corporation of the Town of Barrie, hereinafter called the Corporation,

Of the First Part, and

Simon Dymont, of the Town of Barrie, in the County of Simcoe, Capitalist; Edward C. Hill, of the City of Toronto, Agent, and William Thompson, of the said City of Toronto, Engineer, hereinafter called the parties

Of the Second Part.

Whereas the parties of the Second Part are the exclusive representatives in Canada of the Weber Gas Engine Company, of Kansas City, Missouri, with the control of the exclusive right to manufacture and sell in Canada Weber Gas and Producer Gas Engines, and with the sole right to use the name Weber in connection therewith in Canada, and have agreed to locate the manufacturing plant of the Company which it is proposed to incorporate for the purpose of manufacturing and selling the said goods throughout Canada, at the Town of Barrie, on the terms and conditions hereinafter set forth.

Now, Therefore, This Indenture Witnesseth that in consideration of the premises and the respective covenants hereinafter made by the said parties each with the other, it is hereby covenanted and agreed by and between the parties hereto, their respective heirs, executors, administrators, successors and assigns as follows:—

1. The parties of the Second Part agree that they will, after the passing of the By-law hereinafter mentioned, take steps to procure the incorporation under the laws of Ontario of a limited liability Company with an authorized capital of not less than \$300,000.00, for the purpose of commencing and carrying on in Canada the manufacture and sale of Gas Producers, Producer Gas and Gasoline Engines, with a factory and plant located at the Town of Barrie.

2. The parties of the Second Part further undertake and agree that the said Company will, when incorporated, and will, before calling upon the Corporation to pay over to the said Company any portion of the loan hereinafter referred to, acquire from the said Simon Dymont, or the owners thereof, for the purpose of the said Company as aforesaid, the machine shop and foundry property now owned by him or them, in the said Town of Barrie, more particularly described as follows:—

All and singular those certain parcels or tracts of lands and premises situate, lying and being in the Town of Barrie, in the County of Simcoe, and being composed of Lots Numbers One and Two on the West side of Bayfield Street, and Two and Three on the east side of John Street, all in the said Town of Barrie, shewn on registered plan Number Seventeen.

And will equip the said buildings with plant and machinery for the purposes aforesaid, such lands and premises and fixed plant when equipped as aforesaid to be of the full cash value of \$60,000.00, of which cash value, both in regard to the fixed plant and the foundry buildings and land, the proper officers of the Town are to be satisfied by good and sufficient evidence thereof, to be supplied by the parties of the Second Part in the form of Statutory Declarations, accompanied, so far as new machinery is concerned, by invoices of the manufacturer. It being distinctly understood that in arriving at the value of the fixed plant nothing is to be included for old machinery.

3. Should the proper officers of the Town not be satisfied with the cash value placed on said buildings, site and fixed plant by the parties of the Second Part as per Clause 11 hereof, the same is to be finally determined under the provisions of the Ontario Arbitration Act.

The

4. The parties of the Second Part further undertake and agree that the said Company will begin to fit up the said premises in the Town of Barrie, and to install the fixed plant aforesaid within thirty days after the validation by the Courts of the By-Law hereinafter referred to, or after the expiry of the time within which the same may be attacked in the Courts, and will have the same manufacturing plant in operation within six months after the validation of the said By-Law, or from the expiry of the said time for attacking the same.

5. The parties of the Second Part further undertake and agree that on or before the expiration of six months after the final validation of the said By-Law, or from the expiry of the time for attacking the same as aforesaid, the said Company will employ at least twenty hands in connection with the proposed work at Barrie, and within three additional months, and thereafter while any portion of the loan hereinafter mentioned remains unsatisfied, will employ in and at their works in Barrie continuously for at least three hundred days in the year, in connection with the manufacturing to be there carried on, at least an average in every year of fifty hands, all of whom shall be residents of the Town of Barrie, and to whom shall be paid annually not less than the sum of \$25,000.00 in wages, all the above being subject to strikes, accidents or other delays beyond their control, and in calculating the amount paid in wages, the salary, allowance, or wages paid to any employee of the Company not resident in the Town of Barrie shall not be included.

6. The parties of the Second Part further undertake and agree that they will have at least \$55,000.00 of their preferred capital stock subscribed by persons well able to pay any calls which may be made upon them on account of the stock subscribed for, and will, before calling upon the Corporation to pay over to the said Company any portion of the loan hereinafter referred to, produce to the proper officers of the Corporation of the Town of Barrie their stock book, shewing the subscription herein provided for, and will reasonably satisfy the Corporation of the financial ability of the subscribers for stock to pay the same up in full when required so to do. It being understood that no portion of said stock subscription is to be made up of stock given, or partly given or paid for buildings, land, plant, exclusive or other rights, patents, plans, specifications, blue prints, drawings, sale of stock, trade marks, use of names otherwise howsoever except for bona fide stock subscription on which the subscribers are to pay into the Treasury of the proposed Company at least one hundred cents on the dollar, which will be available for the operation of the said industry, and for the purpose of enabling the proper officers of the Town to satisfy themselves as to the due and proper fulfilment of this provision, all necessary books of the proposed Company are to be open at all reasonable times for inspection by the proper officers or authorized agents of the Town of Barrie until the loan is advanced, providing that the parties of the Second Part, or the said Company, instead of satisfying the Corporation as to the financial ability of said subscribers, may fulfil this clause by having at least 25 per cent. of said subscribed stock paid into the Treasury of said Company.

7. The parties of the Second part further undertake and agree that they will, before calling upon the Corporation to pay over to the proposed Company any portion of the loan hereinafter mentioned, have all proper transfers of land, plant and machinery made to the proposed Company, and that the proposed Company will execute and deliver to the said Corporation a first mortgage in the form and in accordance with the terms and conditions of the form of mortgage hereto annexed and marked with the letter "A," clear of all liens, charges and encumbrances upon the aforesaid lands and premises, buildings and fixed plant and equipment therein, which said plant, machinery and equipment shall for the purposes of the said security be regarded as part of the freehold for the repayment of the loan hereinafter mentioned, and said mortgage shall provide not only that all fixed plant and machinery placed in said buildings on their original construction, but also all plant and machinery that shall at any time during the continuance of such mortgage thereafter be placed therein in renewal of or in addition to what may be placed therein originally shall be deemed to be part of the freehold, and covered by said mortgage, subject, however, as to
such

such additional machinery, to any previous liens, claims or mortgages thereon; and if required by the Corporation the said proposed Company shall at the expense of the Corporation execute and deliver to the said Corporation at any time subsequent to said mortgage, and while any part of the debt remains unpaid, a confirmatory mortgage or mortgages on said lands, buildings and plant.

9. The parties of the Second Part further undertake and agree that the said proposed Company will insure and keep insured during the period any portion of the said debt remains unpaid against loss or damage by fire in Insurance Companies to be approved by the said Corporation, the buildings, plant and machinery of the said Company to an amount not less than the debt existing from time to time from the said Company to the said Corporation, and that the said Company will assign the said policies to the Corporation, to be held by the latter as mortgagees up to the extent of their interest from time to time as same shall appear.

10. The parties of the Second Part further undertake and agree that they will, before asking for any portion of the loan hereinafter mentioned, produce to the proper officers of the Town a legal and valid agreement from the Weber Gas Engine Company, of Kansas City, granting and assigning to them or to the said Company the exclusive and other rights recited and referred to in the first paragraph of this Agreement, and no assignment of the rights to be secured from the parent company is to be made without the written consent of the Town of Barrie, except to the successors of the parties of the Second Part, who are to carry on the business in Barrie.

11. The parties of the Second Part further covenant and agree that such parts of the gas engines, and gas producers, and other machinery to be manufactured by them or the proposed Company will all be manufactured at their works in the Town of Barrie, and at no other point in the Dominion of Canada, during the time any portion of the loan hereinafter referred to remains unpaid.

12. In consideration of the foregoing Covenants, the Corporation agrees to loan to the said Company, when incorporated, a sum of money which shall not exceed the sum of Forty thousand dollars without interest, and which will not be in excess of seventy-five per cent. of the actual cash value of the site, building and fixed plant when determined as hereinafter provided for, the repayment of the same to be secured by first mortgage as herein provided for, and to be repayable in twenty equal annual instalments; the first annual payment to be made eleven months after the final passing of the By-Law hereinbefore referred to, and thereafter yearly on the same date in each year.

13. The Corporation further agrees to grant to the proposed Company the following annual amounts towards the cost of electric light and water used on the said manufacturing premises, viz.:

- \$300 a year for fifty men,
- \$350 a year for sixty men,
- \$400 a year for seventy men,
- \$450 a year for eighty men,
- \$500 a year for ninety men,
- \$550 a year for 100 men.
- \$600 a year for one hundred and ten men,

said grants to be made at the end of each year for Twenty years, providing the proposed Company shall first supply the Corporation with a statutory declaration, signed by the President or Vice-President and Treasurer or Secretary of said Company, proving that the number of men herein provided for have been employed, and that the wages have been paid which are herein provided for, providing, however, that the Corporation is in no case to be liable to pay more than \$600 per year, and never more than the actual cost to the Company of the light and water used by them, which cost the Company is to first pay to the Light and Water Department at the rates and at the times required under their by-laws, rules and regulations, the light rate in no case to exceed eight cents per thousand watts.

14. The Corporation further agrees to levy no taxes on the property of the Company for a period of ten years from the date hereof other than school rates.

15. And the Corporation further agrees to a further exemption of the property of the Company from taxation for an additional period of ten years after the expiry of the exemption period provided

for

for in the next preceding paragraph, and that school rates shall be levied on the said property on a fixed assessment of \$20,000.00 during the currency of the said mortgage; it being understood, however, that the provisions of this paragraph shall not be binding upon the Corporation until the same have been validated by an Act of the Legislature of the Province of Ontario, and that the Corporation will apply for such legislation at the earliest possible date and use its best endeavor to have an Act passed for that purpose, the cost of such application to the Legislature to be borne by the said Company.

16. It is further agreed that the books of the proposed Company if in default in any respect under the provisions of this Agreement or said mortgage shall be open for inspection at all reasonable times by duly accredited representatives of the Corporation for the purpose of satisfying the corporation as to the fulfilment of the various terms and conditions herein provided for.

17. Upon the execution of this Agreement, the Corporation will proceed forthwith to submit the necessary By-law to the freeholders and others qualified to vote thereon, for approval, and thereafter will finally pass the same if carried by the necessary vote of the qualified rate-payers, and will immediately thereafter promulgate the same under the provisions of *The Municipal Act*.

18. It is further understood and agreed that this Agreement is to be superseded immediately after the incorporation of the proposed Company by an Agreement between the Corporation and the Company to the effect of this Agreement and in the terms and language thereof, so far as applicable and necessary.

In witness whereof the parties hereto have hereunto set their hands and seals on the day and year first above written, and the Corporation their corporate seal and the hand of their proper officers in that behalf.

Signed, Sealed and Delivered

In the presence of

H. M. DYMENT.

(Corporate Seal).

S. DYMENT. (Seal)

E. C. HILL (Seal)

WM. THOMPSON.

Per E. C. HILL, *Atty.* (Seal)

JAMES VAIR, *Mayor.*

E. DONNELL, *Clerk.*

SCHEDULE "B."

Memorandum of Agreement made and entered into, in triplicate, this 15th day of November, A.D. 1909.

Between:

The Municipal Corporation of the Town of Barrie, in the County of Simcoe, hereinafter called the "Corporation,"

Of the First Part, and

The Canada Producer and Gas Engine Company, Limited, of the said Town of Barrie, hereinafter called the "Company,"

Of the Second Part.

Whereas the said Company has recently been incorporated in and under the laws of the Province of Ontario.

And whereas prior to and pending the incorporation of the Company, and before it was clothed with authority to enter into contracts, negotiations on its behalf were entered into with the Corporation for a loan and other privileges and concessions to the Company

in

in consideration of the Company, upon being incorporated, establishing a certain industry in the Town of Barrie, and for other considerations, all of which are set forth and provided for in the Agreement hereinafter referred to.

And whereas in order to facilitate the carrying out of the objects of the persons then interested in the proposed Company, and to prevent delay and induce the Corporation to submit and pass a By-Law authorizing the Corporation to raise said loan moneys without awaiting the incorporation of the Company, Simon Dymont, of the Town of Barrie, aforesaid, Capitalist, Edward C. Hill, of the City of Toronto, Agent, and William Thompson, of the City of Toronto, Engineer, therein called the parties of the Second Part, entered into a written Agreement under seal with the Corporation, therein also called the Corporation, of the First Part, bearing date the 19th day of April, A.D. 1909, by which said Dymont, Hill and Thompson took, for the time being, and pending incorporation, the place of the Company then to be incorporated, and contracted and agreed with the Corporation for the performance of the various acts, duties, matters and things thereafter to be performed by the Company thereafter to be incorporated, a copy of which Agreement is hereunto annexed and identified as Schedule "A" to this Agreement.

And whereas in and by said Agreement, it was amongst other things provided that upon the proposed Company being incorporated, a new Agreement would be executed by which the Company would assume and take upon itself all the undertakings, covenants and obligations by the said scheduled Agreement contracted for and undertaken by said Dymont, Hill and Thompson, and by which the contract then entered into between the Corporation and said Dymont, Hill and Thompson would thereupon become an Agreement and contract between the Corporation and the Company, and these presents are entered into and executed for the purpose of carrying out the provision of the said Agreement in this recital referred to.

Now this Agreement witnesseth:

1. That it is hereby mutually agreed that for the purpose of determining and defining the rights and obligations of the Corporation and the Company each with regard to the other, said Schedule "A" is hereby mutually adopted as a basis of contract and incorporated in and made part of this Agreement.

2. That the Corporation upon its part covenants and agrees with the Company that in so far as the same has not already been carried out or performed, it will abide by, observe, keep and perform towards, for and for the benefit of the Company all the terms, promises, undertakings, covenants and obligations entered into or contracted for with said Dymont, Hill and Thompson in the same manner and as fully in all respects as if the Company had then been incorporated and the Agreement had been made directly with it.

3. The Company upon its part covenants and agrees with the Corporation to take the place of said Dymont, Hill and Thompson, and that in so far as the same has not already been carried out or performed, it will abide by, observe, keep and perform all the stipulations, promises, undertakings, covenants and obligations by the said scheduled Agreement made, undertaken, given or assumed by Dymont, Hill and Thompson, whether upon their own behalf or upon behalf of the Company thereafter to be incorporated to all intents and purposes as if they had then been incorporated and taken the place of Dymont, Hill and Thompson.

In witness whereof the parties hereto have set their corporate seals and the hands of the proper officers in that behalf.

Executed in the presence of

(Corporate seal).

(Corporate seal).

The Canada Producer and Gas
Engine Co., Limited,
S. DYMENT, *President*.
E. C. HILL, *Secretary*.
JAMES VAIR, *Mayor*.
E. DONNELL, *Clerk*.

SCHEDULE C

SCHEDULE C.

BY-LAW No. 662.

Being a By-law to authorize the loan of \$40,000 to Simon Dymont, of the Town of Barrie, Edward C. Hill and Wm. Thompson, both of the City of Toronto, to be incorporated under the Laws of Ontario as provided for in the Agreement hereinafter mentioned, and to authorize the issue of debentures to raise said loan.

Whereas the said Simon Dymont, of the Town of Barrie, in the County of Simcoe, Edward C. Hill and William Thompson, both of the City of Toronto, in the County of York, have applied to the Municipal Corporation of the Town of Barrie for a loan of \$40,000, upon the security of a mortgage on the land, machinery and plant belonging to the said parties and for other concessions respecting light and water and exemption from taxation, except for school purposes, which are otherwise more fully set out in an Agreement made between the said Simon Dymont, Edward C. Hill and William Thompson and this Corporation, bearing date the 19th day of April, 1909, for the purpose of aiding the said Simon Dymont, Edward C. Hill and William Thompson, or a Company which the said parties propose to have incorporated under the laws of Ontario as set out in said Agreement, to complete the building on the lands and premises in said Agreement more particularly referred to, and to install therein machinery and plant, and generally to manufacture and sell gas producers, producer gas and gasoline engines, and of operating a machine shop and foundry for the said purpose.

And whereas the said Agreement contains a clause that the same is to be superseded immediately after the incorporation of the proposed Company by an Agreement between the Corporation and the proposed Company when incorporated to the effect of the said Agreement.

And whereas the said Municipal Council have deemed it right to comply with the said requisition, and it will be necessary for said purposes to issue debentures of the said Municipal Corporation for the sum of \$40,000.

And whereas it will be necessary to raise annually during the term of twenty years hereinafter mentioned by special rate to pay the said debt to be created by this by-law and interest thereon the sum of \$3,075.05.

And whereas the amount of the whole rateable property of the Municipality of the Town of Barrie according to the last Revised Assessment Roll, being the Assessment Roll for the past year 1908, is \$3,175,012.

And whereas the amount of the existing debenture debt of the said Municipality is \$294,386.40, of which no part either of principal or interest is in arrear.

Therefore the Municipal Council of the Corporation of the Town of Barrie, enacts as follows:

1. That to raise the said sum of \$40,000 for the purposes aforesaid, it shall be lawful for the Corporation of the said Municipality to issue Debentures of the said Municipality to said amounts in sums not less than \$100 each, payable within twenty years from the date of the final passing of this by-law.

2. That the said Debentures so to be issued for the said sum of \$40,000 shall bear interest at the rate of $4\frac{1}{2}$ per cent. per annum payable yearly, such debentures shall be payable in twenty annual successive instalments, such annual instalments of principal and interest to be of such amount that the aggregate amount payable for principal and interest in any year shall be equal as nearly as may be to what is payable of principal and interest during each of the other

years

years of said period, and one of such instalments of principal shall be payable in one year from the final passing of this by-law and the remaining nineteen instalments of principal shall be payable on the same day in each of the nineteen succeeding years, and said yearly instalment of interest shall be payable at the same time and each of said debentures shall include the whole amount of interest payable that year or coupons for interest shall be attached to each debenture as the Mayor and the Treasurer shall determine.

3. That the said debentures as to the principal and interest shall be payable at the branch of the Bank of Toronto, in the said Town of Barrie.

4. That it shall be lawful for the Mayor of the said Municipal Corporation, and he is hereby authorized and instructed to sign and issue the said debentures hereby authorized to be issued, and the interest coupons (if any) attached thereto, and to cause the same also to be signed by the Treasurer of the said Municipality, and the Clerk of the said Municipality is hereby authorized and instructed to attach the seal of the said Municipality to the said debentures.

5. There shall be raised and levied in each year during the currency of the said debentures or any of them by special rate on all the rateable property of said Municipality in the same manner as other taxes are levied, a sum sufficient to pay and discharge the said several yearly sums of principal and interest so accruing due as the same become respectively payable according to the terms of this by-law, that is to say, the total sum of \$3,075.05 in each of the said years, provided that the monies paid by the said Simon Dymont, Edward C. Hill and William Thompson or by the Company to be incorporated under the terms of the said in part recited Agreement under the said mortgage shall be applied towards the payment of said debentures and coupons.

6. That the further grants and concessions as set out in said Agreement dated the 19th day of April, 1909, be made to the said Simon Dymont, Edward C. Hill and William Thompson, or to the Company, the incorporation of which is provided for in the said Agreement in accordance with the terms and conditions as set out, in said Agreement.

7. That this by-law shall take effect on the day of the final passing thereof.

8. The votes of the duly qualified electors of the said Town of Barrie shall be taken on this by-law on Monday, the 17th day of May, 1909, commencing at 9 o'clock in the forenoon and continuing until 5 o'clock in the afternoon at the undermentioned places, and by the following Deputy Returning Officers and Poll Clerks, that is to say:—

in

Polling Sub-division No. 1, at Wm. Caldwell's shop; Deputy Returning Officer, Fred Marr; Poll Clerk, Geo. Brown.

Polling Subdivision No. 2, at Fire Hall; Deputy Returning Officer, John Clayton; Poll Clerk, Thos. Milbee.

Polling Sub-division No. 3, at Shouldice's shop; Deputy Returning Officer, John Powell, Poll Clerk, Alex. McNeil.

Polling Sub-division No. 4, at Whitby's shoe shop; Deputy Returning Officer, A. F. Hunter; Poll Clerk, A. F. A. Malcomson.

Polling Sub-division No. 5, at McEachren's store; Deputy Returning Officer, D. A. McNiven; Poll Clerk, P. R. Smith.

Polling Sub-division No. 6, at Fire Hall; Deputy Returning Officer, Ed. Whitebread; Poll Clerk, J. S. Brunton.

9. That on the 14th day of May, 1909, at the Council Chamber, in said Town of Barrie, at 2'clock in the afternoon, the Mayor will appoint in writing, signed by him, two persons to attend at the final summing up of the votes, and one person to attend at each of the polling places on behalf of the persons interested in and desirous of promoting the passing of this by-law, and a like number of persons interested in and desirous of opposing the passing of this by-law.

10. That the said Clerk of the said Council shall at his office in the Council Chamber on the 19th day of May, 1909, at the hour of 2 o'clock in the afternoon, sum up the number of votes given for and against this by-law.

SCHEDULE TO FOREGOING BY-LAW.

No. of Debentures.	Annual Payment of Interest.	Amount of An- nual Payment of Principal.	When Prin. and Interest Payable.	Total Annual Payment of Principal and Interest.
1	\$1,800 00	\$1,275 05	1910	\$3,075 05
2	1,742 63	1,332 42	1911	3,075 05
3	1,682 67	1,392 38	1912	3,075 05
4	1,620 01	1,455 04	1913	3,075 05
5	1,554 53	1,520 52	1914	3,075 05
6	1,486 11	1,588 94	1915	3,075 05
7	1,414 61	1,660 44	1916	3,075 05
8	1,339 89	1,735 16	1917	3,075 05
9	1,261 61	1,813 24	1918	3,075 05
10	1,180 21	1,894 84	1919	3,075 05
11	1,094 94	1,980 11	1920	3,075 05
12	1,005 84	2,069 21	1921	3,075 05
13	912 72	2,162 33	1922	3,075 05
14	815 42	2,259 63	1923	3,075 05
15	713 73	2,361 32	1924	3,075 05
16	607 48	2,467 57	1925	3,075 05
17	496 44	2,578 61	1926	3,075 05
18	380 40	2,694 65	1927	3,075 05
19	259 14	2,815 91	1928	3,075 05
20	132 42	2,942 63	1929	3,075 05
		\$40,000 00		

Read a first and second time in open Council, on the 19th day of April, 1909.

Read a third time and finally passed on the 7th day of June, 1909.

(Sgd.) JAMES VAIR, *Mayor*. (L.S.)
(Sgd.) E. DONNELL, *Clerk*.

CHAPTER 108.

An Act respecting By-Law No. 663, of the
Town of Barrie.*Assented to 19th March, 1910.*

WHEREAS the Municipal Corporation of the Town Preamble.
of Barrie has by petition represented that on the
15th day of May, 1909, an agreement set out as Schedule
“A” hereto was entered into between the Barrie Tan-
ning Company (Limited) and the said Municipal Cor-
poration for the purpose of declaring and defining the
terms and conditions upon which the said Corporation
should aid the said Company by way of exempting its
property in the Town of Barrie from taxation, other than
for school rates, fixing the assessment of the Company’s
property for school taxes only, providing for the payment of
an annual amount, not exceeding \$300, to assist in defraying
the cost of electric light and supplying water for fire pro-
tection only, for the purpose of encouraging and assisting the
said Company to enlarge and extend their buildings and pre-
mises, increase their business, and develop a new and exten-
sive additional branch thereof, requiring the employment
of many more workmen; that the said Corporation has
in pursuance of the said agreement passed a by-law, num-
bered 663, for the carrying out of the purposes set forth in
the said agreement and the granting of such aid to the said
Tanning Company, a copy of which by-law is contained in
Schedule “B” hereto; and whereas the said by-law, before
it was finally passed was on the 21st day of June, 1909,
submitted to the ratepayers when out of 1391 ratepayers en-
titled to vote 918 voted for and 92 against the same; and
whereas there is no other tannery or business of like char-
acter in the said Town; and whereas by its said petition the
said Town has prayed that an Act be passed to ratify and
confirm the said Agreement and By-law; and whereas no
opposition has been offered to said petition; and whereas it
is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and con-
sent of the Legislative Assembly of the Province of Ontario
enacts as follows:—

Agreement
between
Town and
Barrie
Tanning
Company
confirmed.

By-law No.
663 of Town
of Barrie
confirmed.

1. The Agreement, set out in Schedule "A" to this Act, is ratified and confirmed, and declared legal, valid, and binding upon the parties thereto.

2. By-law Number 663, of the Town of Barrie, set out in Schedule "B" to this Act, is confirmed and declared to be legal, valid and binding upon the said Municipal Corporation and the ratepayers thereof.

SCHEDULE "A"

This Indenture, made (in duplicate) this Fifteenth day of May, 1909, between The Barrie Tanning Company, Limited, of the first part, and the Municipal Corporation of the Town of Barrie, of the second part.

Whereas the parties of the first part have for the last fifteen years carried on continuously in the Town of Barrie the business of tanners and the manufacturers of leather.

And whereas, the said parties of the first part desire to extend and increase their said business, and develop a new branch thereof, and to erect and build other buildings and premises and to procure additional plant and machinery suitable for such additional business.

And whereas the said parties of the first part have agreed to erect said buildings on the site of their present tannery in said Town of Barrie, and have also agreed that when the said new buildings and plant are erected, installed and completed, they will employ in the carrying on of their said business at least 25 per cent. more workmen than at present agreed by them to be employed under Indenture of Agreement between the parties hereto bearing date the 30th January, 1900, which workmen shall be resident in the said Town of Barrie.

And whereas the said parties of the first part have applied to the said parties of the second part to aid them by giving them such exemption from taxation and from payment of electric light consumed as is hereinafter more fully set forth.

And whereas the Municipal Council of the said Corporation of the Town of Barrie deem it expedient to grant the application and request of the said parties of the first part upon the terms and conditions hereinafter set forth.

Now this indenture witnesseth, and it is hereby covenanted and agreed by and between the said parties of the first and second parts, their respective successors and assigns as follows:—

1. The said parties of the first part agree that they will erect and build upon the site of their present tannery, and being composed of the lands particularly described in registered Instrument No. 6743 for Barrie, a new four and a half storey solid brick building, Mill Construction, and with either concrete or stone foundation throughout, not less than one hundred and thirty feet in length by fifty feet in width, except where said new building adjoins and forms an angle with the main building, said building to be completed on or before the first day of January, 1910, save and except in the event of strikes or other unavoidable causes, when six months additional time shall be given for the completion thereof, and will as soon as possible thereafter place thereon such machinery and plant as may be necessary to equip same in a modern and up-to-date manner for

the purpose and object for which same is to be erected, the total cost of said building and plant being estimated at (\$25,000.00) Twenty-Five Thousand Dollars, in computing which no lands, buildings or machinery or plant owned by parties of the first part before the date of this Agreement shall be taken into account or estimated.

2. The said parties of the first part further agree that upon the completion of the building in the last preceding paragraph agreed to be erected, they shall employ continuously for at least three hundred days in each year for a period of twenty consecutive years, computed from the date of completion of said building, in the carrying on of their said business of tanning and manufacturing of leather and products thereof at least twenty-five per cent. more workmen than agreed by them to be employed under and by virtue of a certain Indenture of Agreement made between the parties hereto and dated the thirtieth day of January, 1900, all of which workmen shall, while so employed, be resident in the Town of Barrie, the above being subject to strikes, accidents or other delays beyond their control. And also shall maintain and keep in active operation the said tannery during the said period of twenty years save as aforesaid.

3. The said parties of the first part further agree to furnish the parties of the second part at any and all reasonable times, upon request in writing, during such period of twenty years with such evidence as the parties of the second part may reasonably require as to the number of workmen employed by said parties of the first part.

4. In consideration of the foregoing covenants the parties of the second part agree to levy no taxes on the property, at present owned or hereafter acquired for the purpose of their business, of the parties of the first part for a period of ten years from the 1st day of January, 1910, or from the date of completing said building, if same is not completed by January 1st, 1910, other than school rates.

5. The parties of the second part further agree to a further exemption of the property of the parties of the first part from taxation, other than for school rates, for an additional period of ten years after the expiring of the exemption period provided for in the next preceding paragraph, and that school rates shall be levied on the said property on a fixed assessment of \$25,000.00 during the said period of ten years mentioned in the next preceding paragraph, and during the additional period of ten years mentioned herein, it being understood, however, that the provisions of this paragraph shall not be binding on the parties of the second part until the same shall have been validated by an Act of the Legislature of the Province of Ontario.

6. The parties of the second part further agree to grant to the parties of the first part the following annual amount towards the cost of electric light used on the said tanning premises: Four dollars per year for each workman employed by the parties of the first part. Said grants to be made at the end of each year for twenty years, the first grant to be made on the first day of January, 1911, or one year after the completion of said building, if not completed by January, 1910, provided and on condition that the parties of the first part shall first supply the parties of the second part with a Statutory Declaration signed by the President and Vice-President and Treasurer or Secretary of the said Barrie Tanning Company, Limited, proving the number of workmen herein provided for have been employed, and provided also that the parties of the second part shall in no case be liable to pay more than Three Hundred Dollars per year, and never more than the actual cost to the parties of the first part of the light used by them, which cost the parties of the first part are to first pay to the Electric Light Department at the rates and at the times required under their by-laws, rules and regulations.

The

7. The parties of the second part further agree to connect a three inch pipe to the water main on Bradford Street and carry same to the western boundary of the lands owned by the parties of the first part for the purposes of a stand pipe, only to be erected on said lands by the parties of the first part and to supply water thereby to the parties of the first part to be used by them only in the event of fire breaking out on their said premises on Bradford Street, and for necessary fire tests. Such water to be given free of hydrant rent by said parties of the second part for a period of twenty years, commencing January 1st, 1910.

8. The parties of the second part also agree that upon the execution of this agreement they will forthwith submit the necessary by-law to the freeholders of the Municipality and others qualified to vote thereon for approval, and thereafter will finally pass same, if carried by the necessary vote of the qualified ratepayers, and will aid the said parties of the first part in securing legislation to ratify such by-law, the provisions of the said Act to be first approved of by the parties of the second part before becoming law.

9. The expenses connected with the drafting and execution of this agreement, the taking of the vote on said by-law, the advertising and publishing the proposed by-law, shall be borne and paid by the parties of the second part, except in so far as the parties of the first part incur on their own behalf expense for legal advice and services of which legal advice and services the parties of the first part shall pay the cost. All other expenses connected with the passing of the by-law and the securing of the said legislation shall be borne and paid by the parties of the first part.

10. It is understood and agreed that this agreement shall not become operative and binding upon the respective parties hereto, unless and until the necessary assent of the said electors shall have been obtained to the passing of such by-law.

In witness whereof the parties hereto of the first part have hereunto affixed their Corporate Seal and the hands of their President and Secretary, and the said parties of the second part have hereunto affixed their Corporate Seal and the hand of the Mayor and Clerk of said Corporation.

Signed, sealed and delivered in the presence of

"James Vair,"

Mayor.

"E. Donnell,"

Clerk.

(SEAL.)

"The Barrie Tanning Company, Limited,"

"S. Wesley,"

President.

"G. H. Eston,"

Secretary.

(SEAL.)

SCHEDULE "B"

BY-LAW No. 663.

Being a By-law to authorize the granting of Bonuses by way of exemption from taxation, other than for school rates, and to provide for the payment of annual amounts not exceeding Three Hundred Dollars, to assist in defraying the cost of Electric Light to the Barrie Tanning Company, Limited.

Whereas the said Barrie Tanning Company, Limited, has applied to the Municipal Corporation of the Town of Barrie for certain concessions respecting light and water and exemption from taxation other than for school rates, on their property and plant, now situated on Bradford Street, in the Town of Barrie, or to be hereafter acquired for the purposes of their business as tanners which concessions are more fully set out in an agreement made between the said Barrie Tanning Company, Limited, and the Municipal Corporation of the Town of Barrie, and dated the 15th day of May, 1909, to assist the said Barrie Tanning Company, Limited, in erecting certain buildings on their present site on said Bradford Street and in thoroughly equipping same with an up-to-date plant, to extend their present business and to develop a new branch thereof.

And whereas the Municipal Council of the Corporation of the Town of Barrie have deemed it advisable to comply with the said requisitions of the Barrie Tanning Company, Limited;

And whereas the amount of the whole rateable property of the Municipality of the Town of Barrie, according to the last revised assessment roll, being the assessment roll for the past year, 1908, is \$3,175,012.

And whereas the amount of the existing debenture debt of the said Municipality is \$294,386.40, of which no part, either principal or interest, is in arrears;

Therefore, the Municipal Council of the Corporation of the Town of Barrie enacts as follows:—

1. That the grants and concessions as to light, water and exemption from taxation other than for school rates, as set out in the said agreement between the Barrie Tanning Company, Limited, and the Municipal Corporation of the Town of Barrie, bearing date the 15th day of May, 1909, be made to the said Barrie Tanning Company, Limited, in accordance with the terms and conditions as set out in said agreement which is hereby ratified and confirmed.

2. That this By-law shall take effect on the day of the final passing thereof.

3. That the votes of the duly qualified electors of the said Town of Barrie shall be taken on this By-law on Monday, the 21st day of June, 1909, commencing at 9 o'clock in the forenoon and continuing until 5 o'clock in the afternoon at the undermentioned places and by the following Deputy Returning Officers and Poll Clerks, that is to say, in

Polling Sub-division No. 1, at Wm. Caldwell's shop; Deputy Returning Officer, Fred. Marr; Poll Clerk, Geo. Brown;

Polling Sub-division No. 2, at Fire hall; Deputy Returning Officer, John Clayton; Poll Clerk, Thos. Milbee;

Polling Sub-division No. 3, at Shouldice's shop; Deputy Returning Officer, John Powell; Poll Clerk, Gordon Stevenson.

Polling

Polling Sub-division No. 4, at Whitby's shoe shop; Deputy Returning Officer, A. F. Hunter; Poll Clerk, A. F. A. Malcolmson.

Polling Sub-division No. 5, at McEachern's store; Deputy Returning Officer, D. A. McNiven; Poll Clerk, P. R. Smith.

Polling Sub-division No. 6, at Fire hall; Deputy Returning Officer, Ed. Whitebread; Poll Clerk, J. S. Brunton.

4. That on Friday, the 18th day of June, 1909, at the Council Chamber, in the said Town of Barrie, at 2 o'clock in the afternoon, the Mayor will appoint in writing, signed by him, two persons to attend at the final summing up of the votes, and one person to attend at each of the polling places on behalf of the persons interested in and desirous of promoting the passing of this By-law, and a like number of persons interested in and desirous of opposing the passing of this By-law.

5. That the said Clerk of the said Council shall at his office in the Council Chamber, on the 22nd day of June, 1909, at the hour of 2 o'clock in the afternoon, sum up the number of votes given for and against this By-law.

Read a third time and finally passed on the 5th day of July, 1909.
(*Sgd.*) E. Donnell, *Clerk*.

Read a third time and finally passed on the 5th day of July, 1909.

SEAL) (*Sgd.*) E. Donnell, *Clerk*. (*Sgd.*) James Vair, *Mayor*.

CHAPTER 109.

An Act respecting the Town of Brampton.

Assented to 19th March, 1910.

WHEREAS the Corporation of the Town of Brampton, Preamble, by petition, has represented that By-Law No. 307, of the said town, set out as Schedule "A" hereto, after having been approved of by the ratepayers, was passed to provide for the construction of a system of sewers in the said town, and the Corporation has proceeded with the construction of such sewers, and has passed By-Law No. 366 for the purpose of levying upon the property specially benefited thereby the proportion of the cost of such sewers chargeable against the same, and it is desirable that such by-laws be confirmed and that the time limited for issuing the debentures under said By-Law No. 307 should be extended, and that authority should be granted to pay out of the proceeds of the debentures to be issued under By-Law No. 307 any deficiency that may arise upon the sale of the debentures under By-Law No. 366; that By-Law No. 365, for the purpose of levying upon the property specially benefited thereby the proportion of the cost of construction of permanent concrete sidewalks and certain retaining walls and culverts in connection therewith; and By-Law No. 370, approved of by the ratepayers, for the purpose of enabling the Council to enter into a contract with the Hydro-Electric Power Commission of Ontario for a supply of electric power for the purposes of said Corporation, and By-Law No. 374, approved of by the ratepayers, for the purpose of providing for the cost of a distributing plant in connection therewith; and By-Law No. 373, approved of by the ratepayers, for the purpose of placing the waterworks of the said town under the management of a Commission, the same having been constructed and managed heretofore under the direction of the Council, should be confirmed; and whereas the value of the rateable property of the said Corporation according to the last revised assessment roll is \$1,283,949.00, and the existing debenture debt exclusive of local improvement debt is \$132,383.74, and such local improvement debenture debt amounts to \$35,140.56; and whereas the said Corporation has prayed

that

that an Act may be passed for such purposes; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-laws No.
307 and 374
confirmed.

1. By-laws Nos. 307 and 374, of the Corporation of the Town of Brampton, set out in Schedules "A" and "B" hereto, and all debentures issued or to be issued thereunder, and all assessments made or to be made, for the payment thereof, are confirmed, and declared to be legal, valid and binding.

By-law No.
370 con-
firmed.

2. By-law No. 370 of the Corporation of the Town of Brampton set out in Schedule "C" hereto, is confirmed, and said by-law and the contract to be entered into pursuant thereto are declared to be legal, valid and binding.

By-law No.
373 con-
firmed.

3. By-law No. 373 of the Corporation of the Town of Brampton set out in Schedule "D" hereto, is confirmed and declared to be legal, valid and binding, and the Commissioners elected and to be elected pursuant thereto are hereby constituted a Corporation under *The Municipal Waterworks Act*, and all rights which may have been acquired by the Corporation of the Town of Brampton as declared by the judgment of the High Court of Justice bearing date the 29th day of April, A.D. 1905, or otherwise, are hereby vested in said Commissioners.

By-laws Nos.
365 and 366
confirmed.

4. By-laws Nos. 365 and 366, of the said Corporation, specified in Schedule "E" hereto, and all debentures issued or to be issued thereunder, and all rates and assessments levied or to be levied for the payment thereof, are confirmed and declared to be legal, valid and binding.

Extension of
time for issue
of debentures
under by-law
307.

5. The time for issuing the debentures under said By-law No. 307 is extended until the first day of July, A.D., 1910, and the Corporation is authorized to pay out of the proceeds thereof, any deficiency that may arise upon the sale of the debentures under by-law No. 366.

Debentures
under by-law
374 not to be
counted in as-
certaining
limit of bor-
rowing
powers.

6. The amount of the debentures to be issued under said By-law No. 374, shall not be included in ascertaining the limit of the borrowing power of the Corporation but shall be excluded in computing the same.

SCHEDULE 'A.'

BY-LAW No. 307.

To Raise the Sum of \$26,000 for the Construction of a System of Sewerage in the Town of Brampton.

Whereas a system of sewerage is required for the convenience and the protection of the health of the citizens of the Town of Brampton, and whereas plans of the said system have been prepared and the total cost thereof estimated by Willis Chipman, civil engineer, at the sum of \$32,000, of which the sum of \$26,000 is proposed to be paid out of the general funds of the Municipality, and the balance of \$6,000 is proposed to be raised from time to time under the Local Improvement System.

And whereas it will be necessary to raise annually by special rate during the term of 30 years the sums hereinafter mentioned for paying the principal sum of \$26,000 and the interest thereon at 4¼ per cent. per annum.

And whereas the whole amount of the rateable property of the said Municipality, according to the last revised assessment roll of the said Municipality, being for the year 1906 is the sum of \$1,233,177.

And whereas the amount of the existing debenture debt of the said Municipality is the sum of \$174,789.67, of which no principal or interest thereon is in arrear.

Therefore the Municipal Council of the Corporation of the Town of Brampton enacts as follows:

1. It shall and may be lawful for the said Corporation to borrow the said sum of \$26,000 for the construction of the system of sewerage in the said Town, and to issue debentures of said Municipality to said amount of \$26,000 in sums of not less than \$100 each, payable in 30 annual instalments and to bear interest from the date thereof at a rate not exceeding 4¼ per cent. per annum, payable annually on the 31st day of December in each and every year, payable in the manner and for the amounts and at the times set forth in the schedule hereto, during the currency of the said debentures, the said debentures shall be made payable as to principal and interest at the Merchants Bank of Canada, at Brampton, Ontario.

2. The said debentures shall be sealed with the seal of the said Corporation, and signed by the Mayor and Treasurer thereof and shall have attached thereto coupons for the payment of interest as aforesaid.

3. For the purpose of providing for the payment of the said debentures and interest in addition to all other rates there shall be assessed, raised, levied and collected upon all the rateable property in the said Municipality in each year during the currency of the said debentures by special rate sufficient therefor, a sum sufficient to discharge the several instalments of principal and interest accruing due on the said debentures as the same become respectively payable according to the schedule to this By-law.

4. This By-law shall take effect on and from and after the final passing thereof.

5. The votes of the ratepayers of the Municipality shall be taken on the By-law on Monday, the eighth day of October, 1906, by the Deputy Returning Officers, who are hereby appointed, commencing at 9 o'clock in the morning and continuing until 5 o'clock in the afternoon at the undermentioned places:

A.—For the East Ward, at the Concert Hall, and T. J. Blain shall be the Deputy Returning Officer.

B.—For the North Ward at Norval & Jones' shop, and Loockwood Fingland shall be the Deputy Returning Officer.

C.—For the West Ward at Dawson & Co.'s warehouse, and Adam Morton shall be the Deputy Returning Officer.

D.—For the South Ward, at Golding Block, and Walter Morphy shall be the Deputy Returning Officer.

6. On the 1st day of October, 1906, the Mayor of the said Town shall attend at the Council Chamber at 11 o'clock in the forenoon to appoint persons to attend at the various polling places aforesaid, and at the final summing up of the votes by the Clerk on behalf of the persons interested therein and promoting and opposing the passing of this By-law respectively.

7. The Clerk of the said Corporation shall attend at the Council Chamber on the 9th day of October, 1906, at the hour of 11 o'clock in the forenoon, to sum up the number of votes given for and against this By-law, and if the said By-law shall be carried by the requisite number of votes of the said Electors, the same shall be finally considered and passed on the 15th day of October, A. D. 1906, at the hour of 8 o'clock p.m., at the Council Chamber in the said Town of Brampton.

This By-law read a first time the 20th day of August, A. D., 1906.

This By-law read a second time the 4th day of September, A. D., 1906.

SCHEDULE "A," to the annexed By-law showing the yearly payments of principal and interest during the period of 30 years referred to in the By-law:

Year.	Interest.	Principal.	Total.
1907	\$1,105 00	\$ 444 56	\$1,549 56
1908	1,086 11	463 45	1,549 56
1909	1,066 41	483 15	1,549 56
1910	1,045 88	503 68	1,549 56
1911	1,024 47	525 09	1,549 56
1912	1,002 15	547 41	1,549 56
1913	978 89	570 67	1,549 56
1914	954 64	594 92	1,549 56
1915	929 35	620 21	1,549 56
1916	903 00	646 56	1,549 56
1917	875 51	674 05	1,549 56
1918	846 87	702 69	1,549 56
1919	817 00	732 56	1,549 56
1920	785 87	763 89	1,549 56
1921	753 41	796 15	1,549 56
1922	719 58	829 98	1,549 56
1923	684 30	865 26	1,549 56
1924	647 53	902 03	1,549 56
1925	609 19	940 37	1,549 56
1926	569 23	980 33	1,549 56
1927	527 56	1,022 00	1,549 56
1928	484 13	1,065 43	1,549 56
1929	438 85	1,110 71	1,549 56
1930	391 64	1,157 92	1,549 56
1931	342 43	1,207 13	1,549 56
1932	291 13	1,258 43	1,549 56
1933	237 64	1,311 92	1,549 56
1934	181 89	1,367 67	1,549 56
1935	123 76	1,425 80	1,549 56
1936	63 38	1,486 18	1,549 56

Take

Take notice that the foregoing is a true copy of a proposed By-law which has been taken into consideration and which will be finally passed by the Council of the Municipality of the Town of Brampton in the event of the assent of the electors of said Town being obtained thereto after one month from the first publication in "The Conservator" and "The Peel Banner and Brampton Times," the date of which said first publication was Friday, the 14th day of September, A. D., 1906, and that the votes of the electors of the said Municipality will be taken thereon at

For the East Ward, Concert Hall, T. J. Blain, Deputy Returning Officer.

For the North Ward, Messrs. Norval & Jones' shop, Lockwood Fingland, Deputy Returning Officer.

For the West Ward, Messrs. Dawson & Co's Warehouse, Adam Morton, Deputy Returning Officer.

For the South Ward, Golding Block, W. S. Morphy, Deputy Returning Officer.

On Monday, the 8th day of October, 1906, at the hour of nine o'clock in the forenoon and continuing until five o'clock in the afternoon of the same day.

Dated this 14th day of September, A.D., 1906.

T. J. BLAIN, Clerk.

AND FURTHER TAKE NOTICE that the ESTIMATES of the proposed expenditure for SEWERS for the said Town of Brampton, published in accordance with, and in pursuance of "The Consolidated Municipal Act, 1903," is as follows, viz.:

SEWERS

1. Land and Right of way	\$2,000 00
2. Disposal Works	8,000 00
3. Main Sewer, from disposal Works to Main St., at S. Wellington St., 3,000 feet	8,000 00
4. Main Sewer, on Main St., from S. Wellington St. to California St., 1,000 feet	3,000 00
5. Storm Sewers on Main Street	1,500 00
6. Main Sewer on Main Street, from California St., to Church St., 750 feet.	2,000 00
7. Sub-main for N. West part of town, 1,800 feet	3,000 00
8. Sub-main on Queen St. from Main St. to Elizabeth St. 800 feet.	1,500 00
9. Engineering, Legal and Sundry	3,000 00
Total cost of Sewerage	\$32,000 00
Frontagers' share of above	6,000 00
Town's share of above	\$26,000 00

T. J. BLAIN, Clerk.

Dated 14th day of September, 1906.

Read a third time and passed the 15th October, A.D., 1906

W. G. MILNER,
Mayor.

T. J. BLAIN,
Clerk.

SCHEDULE "B."

BY-LAW No. 374.

A By-Law to provide for the Issue of \$40,405.00 Debentures for the Cost of a Plant to Distribute Electric Power.

Whereas it is expedient to provide for the cost of works, plant, machinery and appliances necessary for the distribution of electric power in the Town of Brampton to be supplied by the Hydro-Electric Power Commission of Ontario from Niagara Falls, and in order thereto it will be necessary to issue debentures for the sum of \$40,405.00.

And whereas it will be necessary to raise annually during the term of thirty years by special rate for paying the said debt the sum of \$2,480.53.

And whereas it will be necessary to raise the several sums in each year respectively set forth in the schedule to this By-law.

And whereas the whole of the rateable property of the Municipality of the Town of Brampton, according to the last revised assessment roll amounts to \$1,283,949.00.

And whereas the existing debenture debt of the Municipal Corporation of the Town of Brampton, exclusive of its Local Improvement debt amounts to \$132,383.74, of which no portion of the principal or interest is in arrear.

And whereas the said sum of \$40,405.00 is the debt intended to be created by this By-law.

Therefore the Municipal Council of the Corporation of the Town of Brampton enacts as follows:

1st. It shall be lawful for the Mayor of the Town of Brampton to raise by way of loan upon the security of the debentures hereinafter mentioned, from any person or persons, body or bodies corporate, who may be willing to advance the same upon the credit of such debentures, a sum of money not exceeding in the whole the sum of \$40,405.00, in sums of not less than \$100.00 each, payable in thirty years from the date on which this By-law takes effect, and to bear interest at a rate not exceeding four and one half per cent per annum, payable annually on the 31st day of December in each and every year during the currency of the said debentures, in the manner and for the amounts and at the times respectively set forth in the schedule to this By-law, and to cause the same to be paid into the hands of the Treasurer of said Town of Brampton. for the purposes and with the objects above recited.

2nd. The said debentures shall bear date the 1st day of January, A. D., 1910, and shall be made payable at the Merchants Bank of Canada in the said Municipality, and shall have coupons attached for the payment of interest, payable at the same place.

3rd. It shall be lawful for the Mayor of the said Municipality and he is hereby authorized and instructed to sign and issue the said debentures hereby authorized to be issued and to cause the same and the interest coupons attached thereto to be signed by the Treasurer of the Municipality, and the Clerk of the said Municipality is hereby authorized and instructed to attach the seal of the said Municipality to the said debentures.

4th. During the currency of the debentures to be issued under the authority of this By-law there shall be raised and levied in each year by a special rate upon all the rateable property in the

Town

Town of Brampton, over and above all other rates and taxes, the sum of \$2,480.53 for the purpose of paying the amount due in each of the said years, for principal and interest in respect of the said debt.

5th. This By-law shall take effect on, from and after the passing thereof.

6th. The votes of the electors of the Town of Brampton will be taken on this By-law on Monday, the Third day of January, A. D., 1910, commencing at the hour of nine o'clock in the morning and continuing until five o'clock in the afternoon, at the several polling places and by the several deputy returning officers appointed to hold the municipal elections on the said day.

7th. On Tuesday the 28th day of December, A. D. 1909, at the hour of two o'clock in the afternoon, at the Council Chamber in the Town of Brampton, the Mayor will appoint in writing, signed by him, two persons to attend at the final summing up of the votes by the Clerk and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the passing of this By-law and a like number on behalf of the persons interested in and desirous of opposing the passing of this By-law.

8th. The Clerk of the said Municipal Corporation shall attend at the Council Chamber in the Town of Brampton on Tuesday the 4th day of January, A. D. 1910, at the hour of twelve o'clock, noon, to sum up the number of votes given for and against this By-law.

9th. The following is the schedule to this By-law hereinbefore referred to:—

Year.	Principal.	Interest.	Total.
1910	\$ 662 30	\$1,818 23	\$2,480 53
1911	692 10	1,788 43	2,480 53
1912	723 25	1,757 28	2,480 53
1913	755 80	1,724 73	2,480 53
1914	789 80	1,690 73	2,480 53
1915	825 35	1,655 18	2,480 53
1916	862 50	1,618 03	2,480 53
1917	901 30	1,579 23	2,480 53
1918	941 86	1,538 67	2,480 53
1919	984 15	1,496 38	2,480 53
1920	1,028 53	1,452 00	2,480 53
1921	1,074 82	1,405 71	2,480 53
1922	1,123 18	1,357 35	2,480 53
1923	1,173 73	1,306 80	2,480 53
1924	1,226 55	1,253 98	2,480 53
1925	1,281 75	1,198 78	2,480 53
1926	1,339 42	1,141 11	2,480 53
1927	1,399 70	1,080 83	2,480 53
1928	1,462 68	1,017 85	2,480 53
1929	1,528 50	952 03	2,480 53
1930	1,597 28	883 25	2,480 53
1931	1,669 16	811 37	2,480 53
1932	1,744 27	736 26	2,480 53
1933	1,822 76	657 77	2,480 53
1934	1,904 80	575 73	2,480 53
1935	1,990 54	489 99	2,480 53
1936	2,080 07	400 46	2,480 53
1937	2,173 68	306 85	2,480 53
1938	2,271 50	209 03	2,480 53
1939	2,373 71	106 82	2,480 53

Passed in open Council this 17th day of January, A. D. 1910.

THOMAS THAUBURN,
Mayor.

T. J. BLAIN,
Clerk.

SCHEDULE C

SCHEDULE "C."

BY-LAW No. 370.

A By-Law to Provide for the Submission to the Electors Qualified to Vote on By-Laws Creating Debts, of a Question as to a supply of Electric Power from the Hydro-Electric Power Commission of Ontario.

Whereas the Municipal Council of the Corporation of the Town of Brampton deems it advisable to submit to the electors qualified to vote on By-laws creating debts, a question as to a supply of electric power from the Hydro Electric Power Commission of Ontario.

Now therefore the Council of the Corporation of the Town of Brampton enacts as follows:

1st. That at the Municipal Elections to be held on Monday the third day of January, A. D. 1910, the following question be submitted to the electors of the Municipal Corporation of the Town of Brampton entitled to vote on By-laws creating^a debts:

"Are you in favor of obtaining a supply of power from the Hydro-Electric Power Commission of Ontario?"

2nd. That the votes of the said electors be taken on the said question on Monday the third of January, A. D., 1910, commencing at nine o'clock in the forenoon and continuing until five o'clock in the afternoon, at the several polling places and by the several Deputy Returning Officers appointed to hold the Municipal Elections on the said day.

3rd. That a true copy of this By-law shall be published in the Conservator and the Peel Banner and Times once each week for three successive weeks, the first publication to be on the ninth day of December, A. D. 1909, and a copy thereof shall be posted at four or more of the most public places in the Municipality.

4th. That on Tuesday, the 28th day of December, A. D., 1909, at two o'clock in the afternoon, at the Council Chamber in the said Town of Brampton the Mayor will in writing signed by him appoint two persons to attend at the final summing up of the votes by the Clerk, and one person to attend at each polling place on behalf of the persons interested in and desirous of the answering of the said question in the affirmative and a like number on behalf of the persons interested in and desirous of the answering of the said question in the negative respectively.

5th. The Clerk of the Corporation shall attend at the said Council Chamber on Tuesday the 4th day of January, A. D. 1910, at the hour of twelve o'clock noon, to sum up the number of votes given in the affirmative and in the negative respectively.

Read, passed and enacted this Seventh day of December, A. D. 1909.

THOS. THAUBURN,
Mayor.

T. J. BLAIN,
Clerk.

SCHEDULE "D."

BY-LAW No. 373.

A By-Law to provide for the Election of Commissioners to manage the Water Works of the Town of Brampton.

Whereas the Corporation of the Town of Brampton has constructed and has for many years owned and operated waterworks in the said Town.

And whereas the Council of the said Town deems it expedient by By-law assented to by the electors of the Municipality to provide for the election of commissioners for the purpose of exercising and enjoying the powers, rights, authorities and immunities in respect of said waterworks conferred upon the Corporation of the Town of Brampton by the Municipal Waterworks Act or otherwise.

Be it therefore enacted by the Municipal Council of the Corporation of the Town of Brampton as follows:—

1. From and after the final passing of this By-law and until the same is duly repealed the Waterworks System of the said Town of Brampton shall be managed and controlled by three commissioners, one of whom shall be the head of the Council for the time being and the remaining two of whom shall be chosen by the electors of the Municipality at the times and in the manner hereinafter provided, and upon the election of such commissioners, all the powers, rights, authorities and immunities, which might under the said Acts, have been exercised or enjoyed by the Council of the said Town, and the officers of the said Corporation acting therefor, (except the authority to provide money required in respect of such works) shall and may be exercised by the said Commissioners and the officers appointed by them, and the Council thenceforth during the continuance of the Board of Commissioners, shall have no authority in respect of such works, except as aforesaid.

2. The first two commissioners or members of the said Board, other than the Mayor, shall be nominated and elected at the same time and place and in the same manner as the Mayor, and the polling for the said two members so to be elected, if a poll be needed, shall be held simultaneously with the poll for obtaining the assent of the electors to this By-law as hereinafter provided; and in the event of the assent of the electors being obtained to this By-law, the commissioners chosen by such electors shall be, with the head of the Council, the commissioners to fill the offices aforesaid under the said Act.

3. This By-law shall be submitted to the vote of the Electors of the said Town of Brampton on Monday, the 3rd day of January, 1910, being the day on which the annual election for the Municipal Council for the said town is to be held, and polls for the taking of votes of the electors on this By-law will be held at the same hour, on the said day, and at the same places, and by the same Deputy Returning Officers as for the said Municipal election.

4. On the 28th day of December, 1909, the Mayor of the said Town shall attend at the Council Chamber, Town Hall, at two o'clock in the afternoon to appoint persons to attend at the various polling places as aforesaid, and at the final summing up of the votes by the Clerk, on behalf of the persons interested in the promoting or opposing of this By-law respectively.

5. The Clerk of the said Town shall attend at the said Council Chamber at 12 o'clock noon Tuesday, the fourth day of January, 1910, to sum up the number of votes given for and against this By-law.

6. At the meeting of the electors of the said Town for the nomination of candidates for the office of Mayor to be held on the last Monday in the month of December, 1909, at the Town Hall in the said Town, at ten o'clock in the forenoon, there shall also be nominated two persons to be members of the said Board of Water Commissioners. If no more than the necessary number of candidates for the office of water commissioners are proposed, the Clerk, or other Returning Officer or Chairman, shall, after the lapse of one hour, from the time fixed for the holding of the meeting, declare the candidates duly elected for such office. If more candidates are proposed for the said office of water commissioners than are required to be elected hereunder, the Clerk or other re-
turning

turning officer or chairman, shall adjourn the proceedings for filling such offices until the said first Monday in January next thereafter, when at the polls to be opened in each polling subdivision for the election of the Mayor and members of the Council, polls shall be held also for the election of water commissioners hereunder, and such commissioners shall be elected at the same time and place, and in the same manner as the Mayor. And it shall be the duty of the Clerk and the Deputy Returning Officers, and other election officers, to do all things necessary for the due holding of the said election of members of the Board of water commissioners hereunder in manner similar to the other Municipal elections for Mayor as nearly as may be.

7. At the first election held under this By-law the commissioner who shall have received the highest number of votes at such election, or, in case the votes recorded for the two commissioners elected shall be equal, or the election shall be by acclamation, the commissioner having the largest assessment on the last revised assessment roll, shall continue in office for two years and until his successor shall have been elected and the new Board organized, and the remaining commissioner shall continue in office for one year and until his successor shall have been elected and the new Board organized, and at each annual election thereafter a commissioner shall be elected, who shall hold office for two years, to fill the place of the retiring commissioner.

8. The commissioners shall, on or before the 15th day of January in each year, or upon such other day as the Council may name, cause a return to be made to the Council, containing a statement of the affairs of the said water works, which shall show the amounts of the rents, issues and profits arising from the said works, the number of persons supplied during the previous year, the extent and value of the movable and immovable property belonging to the said works, the amount of debentures then issued and remaining unredeemed, the interest paid thereon, or due and unpaid, the state of the sinking fund (if any), the expenses of collections and management and all other contingencies, the salaries of officers and servants, the cost of repairs, improvements and alterations, the price of any real estate acquired, and generally such a statement of the revenue and expenditure of the said works respectively as will at all times afford to the rate-payers a full and complete knowledge of the state of affairs, which statement shall be audited by the auditors of the Corporation in regular course.

9. The commissioners shall pay over to the Municipal Treasurer, quarterly or so much oftener as the Council shall direct, all water rates collected by them, less proper disbursements, and shall perform all other duties required by the said Acts.

10. There shall be no salary payable to the said commissioners or any of them in respect of the said office.

11. Subject to the assent of the electors being obtained to this By-law, the same shall take effect upon, from and after the final passing thereof.

Passed the 17th day of January, A.D. 1910.

THOS. THAUBURN, Mayor.

T. J. BLAIN, Clerk.

(Seal)

SCHEDULE E

SCHEDULE "E."

List of By-laws Providing for the Issue of Debentures by the Council of the Town of Brampton.

No. of By-law	Nature of work under By-law.	Amount of debt created.	Amount to be borne by Town.	Amount to be borne by ratepayers	Time.	Rate.
365	Local improvement debentures to defray cost of permanent sidewalks	\$15,224 20	\$5,464 13	\$9,760 07	20 yrs	4½ %
366	Local improvement debentures to defray cost of sewers and branch connections	33,849 18	.....	33,849 18	30 yrs	4½ %

CHAPTER 110.

An Act respecting the John H. Stratford Hospital
and to confirm certain By-laws of the
City of Brantford.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Municipal Corporation of the City of Brantford has by Petition represented that by deed of gift bearing date the tenth day of February, 1885, John H. Stratford, Esq., did present to the City of Brantford the John H. Stratford Hospital; and whereas, the original hospital has been enlarged and extended from time to time and has been maintained largely at the expense of the City of Brantford; and whereas, by deed of gift aforesaid, it is provided that the affairs of the hospital shall be in the hands of five Governors, the said John H. Stratford being one for life, he having the right to nominate yearly another, the Mayor of the day of the City of Brantford being a third, and the Council of the City of Brantford to elect yearly from their own body, the other two; that at the decease of the said John H. Stratford and his brother Joseph Stratford surviving him, he is to take his place on the Board of Governors, and that the survivor of either of them the said John H. Stratford and Joseph Stratford, to have the privilege of nominating by will one life governor only to act with four others selected by the council of the corporation of the City of Brantford, and that at the death of the survivor's appointee, or in default of such appointment under the will of the survivor, the appointment of all the governors shall rest forever with the Mayor and Aldermen of the City of Brantford; and whereas the said John H. Stratford is deceased, and his place upon the said Board of Governors is filled by said Joseph Stratford; and whereas, in the opinion of the majority of the Board of Governors of the said hospital for the year 1909, it became desirable to alter the mode in which the said hospital is managed, and to alter the provisions for the appointment of governors thereof as hereinafter mentioned, and at the request of the said board a plebiscite was submitted to the electors of the City of Brantford, who by their votes declared in favor of the changes in management to be provided for
by

by this Act; and whereas the said Joseph Stratford and Charles H. Waterous, his nominee as life governor upon the Board of Governors of the John H. Stratford Hospital, have assented to the changes herein provided for; and whereas it is desirable that the by-laws specified in Schedule "B" hereto should be confirmed; and whereas your petitioners have prayed that an Act may be passed for such purposes; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The John H. Stratford Hospital is hereby constituted ^{Incorporation.} a body corporate and politic under the name of The John H. Stratford Hospital, and by that name shall have perpetual succession and a common seal, and may under that name sue and be sued, and shall have all the other powers and privileges hereinafter mentioned, and also all other powers, privileges and immunities vested by law in corporations, necessary or proper for the carrying out of the objects of its incorporation.

2. The entire and absolute control and government and ^{Board of} management of the corporation and of the hospital and of ^{Governors.} the property thereof, and of the hospital staff, shall be and is hereby vested in a Board of Governors, which shall consist of the following persons:

(a) The Mayor of the City of Brantford for the time being.

(b) The Warden of the County of Brant for the time being.

(c) One person who shall be a resident of the City of Brantford and who shall be elected by the City Council of the City of Brantford from time to time, for a period of three years, and who shall not be a member of the City Council of Brantford nor an official of that body.

(d) One person who shall be a resident of the County of Brant and who shall be elected by the Council of the County of Brant from time to time, for a period of three years, and who shall not be a member of the County Council of Brant, nor an official of that body.

(e) One person who shall be elected from time to time for a period of three years by the members of the County

County of Brant Medical Association and for the purpose of such election every duly qualified medical practitioner permanently residing in the County of Brant (including the City of Brantford) shall be a member of said Association.

(f) One person who shall be elected from time to time for a period of three years by the Women's Hospital Auxiliary of Brantford.

(g) One person who shall be elected from time to time for a period of three years, by the Trades and Labor Council of Brantford.

(h) One person who shall be elected from time to time for a period of three years, by the Board of Trade of the City of Brantford.

(i) Joseph Stratford, who shall be a life Governor of the hospital, with the right to nominate by his will his successor, who shall also be a life governor.

(j) Charles H. Waterous, who shall be a life Governor as the appointee of the said Joseph Stratford, and who in the event of his decease prior to the decease of the said Joseph Stratford shall be replaced by an appointee of Joseph Stratford, such appointee also to be a life governor.

(k) Two persons to be appointed by His Honour the Lieutenant-Governor in Council from time to time, for a period of three years, and to be residents of the City of Brantford or County of Brant.

(l) Each person who shall contribute to the hospital the sum of five thousand dollars, shall be a Governor for a period of ten years, and each person who shall contribute to the hospital the sum of ten thousand dollars or upwards, shall be a Governor for life.

Vacancies—
how filled.

3. Where the office of an appointed or elected member of such Board of Governors becomes vacant from any cause before the expiration of the term for which he was appointed or elected, the vacancy shall be filled forthwith by the appointing or electing body, and the person appointed or elected to fill the vacancy shall hold office for the remainder of the term for which his predecessor was appointed or elected.

Deed of gift
confirmed.

4. Except in so far as it is inconsistent with the provisions of this Act the deed of gift from John H. Stratford

ford, Esq., to the City of Brantford, bearing date the tenth day of February, 1885, set out in Schedule "A" hereto, is confirmed.

5. The By-laws of the Corporation of the City of Brantford respectively set out in Schedule "B" hereto, and all debentures issued or to be issued thereunder, and all assessments made or to be made for the payment thereof, are hereby validated and confirmed.

By-laws specified in Sched. "B" confirmed.

SCHEDULE "A."

This Indenture, made the 31st day of January, in the year A.D. 1885, in pursuance of the Act respecting short forms of conveyances.

Between:—

John Henry Stratford, of the City of Brantford, in the County of Brant, and Province of Ontario, Esquire, of the First Part; Sarah Stratford, the wife of the said John Henry Stratford, of the same place, for the purpose of barring dower, of the Second Part, and The Corporation of the City of Brantford, of the Third Part.

Whereas, the said party of the first part purchased the lands, tenements and hereditaments hereinafter particularly mentioned and described, and erected thereon valuable buildings with valuable fixtures, such as gas, water and steam fittings, steam boilers and pipes, bathroom fittings and plumbing, with other valuable improvements at, in and about the buildings and premises, at an expense of twenty thousand dollars, that he might make a gift of the same to the said parties of the third part for a hospital, upon the trusts, terms, provisoes, conditions, covenants and agreements hereinafter also particularly set forth;

Now this Indenture witnesseth that the said party of the first part for and in consideration of the sum of one dollar of lawful money of Canada to him in hand well and truly paid by the said parties of the third part at or before the ensembling and delivery of these presents (the receipt whereof is hereby by him acknowledged) hath given, granted, bargained, sold, assigned, released, enfeoffed, conveyed and confirmed, and by these presents doth give, grant, bargain, sell, assign, release, enfeoff, convey and confirm unto the said parties of the third part, their successors and assigns forever, all and singular that certain parcel or tract of land and premises situate, lying and being in the City of Brantford, in the County of Brant and Province of Ontario, containing by admeasurement nearly seven acres, be the same more or less, being composed of a part of what is known as the Smith and Kerby Tract, and may be known better as follows, that is to say: Commencing where a post has been planted in the western limit of the said Smith and Kerby Tract, and nine chains and six links north of the road leading from the town, now City of Brantford, to Paris, being the south-west angle of this described parcel. Thence south sixty-two degrees, thirty minutes east seven chains to a dividing line of a part of the said tract; thence north twenty-seven chains, thirty minutes east nine chains and forty links more or less, to the south side of Terrace Hill Street; thence westerly along the south side of Terrace Hill Street, seven chains more or less to the St. George Road and the west limit of the said Smith and Kerby Tract. Thence southerly along the eastern limit of the said road, nine chains, forty links more or less to the place of beginning. Together with all and singular the fixtures, gas, water and steam fittings, steam boilers and pipes, bathroom fittings and plumbings in and about the buildings erected thereon and premises.

To

To have and to hold the said lands, tenements, hereditaments and premises, together with all and singular their and every of their rights, members and appurtenances, unto the said parties of the third part, upon the trusts for the intents and purposes and subject to the provisoes, conditions, covenants and agreements hereinafter expressed, declared and contained of and concerning the same, viz.: To be used as a Hospital only upon the following conditions: That the management of the Hospital shall be strictly non-sectarian in its character and the institution to be open to all citizens of the City of Brantford, subject, of course, to the rules that may be laid down hereafter for its conduct. That no clergyman, priest, or member of any religious sect, secret or other society, shall hold religious or other services within its walls or grounds, except in the case of a patient who should request the attendance of such, and then only for that patient's personal benefit.

2. That the said lands, tenements and hereditaments, buildings or grounds shall never be encumbered or mortgaged by any lien whatsoever, and if so encumbered or mortgaged, shall be forfeited at the option of the said John H. Stratford or his heirs, and shall then become the property of the said John H. Stratford, or his heirs, devisees or appointees, if dead.

3. That the supervision of the affairs of the Hospital shall be in the hand of five Governors, the said John H. Stratford being one for life, he having the right to nominate yearly another; the Mayor of the day of the City of Brantford being the third, and the Council to elect yearly from their own body the other two. At the decease of the said John H. Stratford and his brother, Joseph Stratford, surviving him, he is to take his place on the Board of Governors, and the survivor of either of them, the said John H. Stratford and Joseph Stratford, to have the privilege of nominating by will one life Governor only to act with four others selected by the City Council, and at the death of the survivor's appointee, or in default of such appointment under the will of the survivor, the appointment of all the Governors shall rest forever with the Mayor and Aldermen of the City.

4. That no emolument of any kind shall attach to the office of Governor.

5. That the buildings shall always be insured for a sufficient sum to replace them in case of their destruction by fire.

6. The County of Brant to have the privilege of the Institution if the County Council see fit to contribute towards its maintenance a sum sufficient yearly as shall in the opinion of the Governors warrant the enjoyment by the said County of such privileges.

7. The Hospital to be called for all time "The John H. Stratford Hospital."

8. That the said John H. Stratford may contribute towards the maintenance of the said Hospital a yearly sum of four hundred dollars, payable quarterly in advance, such payments to commence at its opening, and to continue for so long a time as he may elect.

The said party of the Second Part, wife of the said party of the First Part, hereby bars her dower in the said lands.

In witness whereof the said parties of the first and second parts have hereunto set their hands and seals and the said parties of the third part have hereunto set their corporate seal the day and year first above written.

(Sgd.)	JOHN H. STRATFORD.	(L.S.)
"	SARAH STRATFORD.	(L.S.)
"	W. J. SCARFE.	(Seal.)
	<i>Mayor.</i>	

Signed, sealed and delivered in the presence of (in triplicate)

(Sgd.)	MARY HARDY.
"	THOMAS ALEXANDER.

SCHEDULE "B."

SCHEDULE "B."

By-law No. 999—To provide for the issue of debentures for \$20,075.00, for the construction of concrete sidewalks as local improvements.

By-law No. 1000—To provide for the issue of debentures for \$216.00, for the construction of a plank sidewalk.

By-law No. 1001—To provide for the issue of debentures for \$11,248.00, for the construction of sewers.

By-law No. 1002—To provide for the issue of debentures for \$1,523.00, for the construction of concrete curbs.

By-law No. 1003—To provide for the issue of debentures for \$8,593.00, for the construction of pavements with concrete curbs and gutters.

By-law No. 1004—To provide for the issue of debentures for \$6,092.00, for the construction of a pavement on Dufferin Avenue.

By-law No. 1005—To provide for the issue of debentures for \$2,457.00, for the construction of storm sewers.

By-law No. 1006—To provide for the issue of debentures for \$1,740.00, for the construction of a storm sewer on Dufferin Avenue.

By-law No. 1007—To provide for the issue of debentures for \$13,531.00, to pay the City's share of the cost of certain works constructed as local improvements.

By-law No. 1025—To provide for the issue of debentures for the purchase of a site and the construction thereon of new Collegiate Institute buildings.

By-law No. 1064—To provide for the issue of debentures for \$12,539.00, for the construction of permanent pavements with concrete curbs and gutters.

By-law No. 1065—To provide for the issue of debentures for \$24,250.00, for the construction of storm sewers.

By-law No. 1066—To provide for the issue of debentures for \$54,175.00, for the construction of permanent pavements with concrete curbs and gutters.

By-law No. 1067—To provide for the issue of debentures for \$14,358.00, for the construction of concrete sidewalks, 1909.

By-law No. 1068—To provide for the issue of debentures for \$49,010.00 to pay for City's share of the cost of certain works as local improvements.

By-law No. 1069—To provide for the issue of debentures for \$21,027.00, for the construction of sanitary sewers.

CHAPTER 111.

An Act to confirm By-law No. 502 of the Town of
Campbellford.*Assented to 7th March, 1910.*

Preamble.

WHEREAS the Municipal Corporation of the Town of Campbellford has petitioned praying that an Act may be passed validating and confirming By-law No. 502, of the said Corporation, set out in Schedule "A" hereto; and whereas before the final passing thereof the said By-law was submitted to a vote of the ratepayers in accordance with the provisions of *The Consolidated Municipal Act, 1903*, as to bonus By-laws, and was approved by more than two-thirds of the ratepayers entitled to vote on the said By-law; and whereas no opposition has been offered to the said petition; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-Law No. 502
of Town of
Campbellford
confirmed.

1. Subject to the provisions of section 2 By-law No. 502, of the Municipal Corporation of the Town of Campbellford, set forth in Schedule "A" to this Act, is confirmed and declared legal and binding upon the Municipal Corporation of the Town of Campbellford and the ratepayers thereof, notwithstanding any want of jurisdiction on the part of the said Municipality to pass the By-law, and notwithstanding any defect in substance or in form of the said By-law or in the manner of passing the same, and the said Corporation is hereby authorized and empowered to do all necessary acts for the full and proper carrying out of the said By-law.

Taxation for
school pur-
poses.

2. Notwithstanding anything contained in the said By-law the lands and property of the said Company shall, for school purposes, be assessed and liable to taxation as though the said By-law had not been passed.

SCHEDULE A

SCHEDULE A.

BY-LAW No. 502.

A By-law to fix the assessment of The Trent Valley Woollen Manufacturing Company, Limited.

Whereas The Trent Valley Woollen Manufacturing Company, Limited, have represented to the Council of the Municipal Corporation of the Town of Campbellford that they are prepared to increase their manufacturing plant in the said town by adding thereto the manufacture of worsted, textile and other goods, and that to so increase the capacity of their plant and works they will expend a sum of not less than twenty-five thousand (\$25,000.00) dollars upon their lands in the erection and equipment of buildings for the purpose aforesaid, and in the development of power, and that they will employ therein at least seventy (70) hands more than the average number employed by them in their works at Campbellford during the five years next preceding the first day of January, A.D. 1909, provided the annual assessment for all municipal purposes, of all the property, real and personal of the Company in said town now owned or hereafter acquired, which may be used solely for the purpose of such manufacture of woollen, worsted, textile and other goods, and all other assessable property now or any time hereafter upon the said lands and premises, while used exclusively for the purposes aforesaid, be fixed at not more than the sum of fifty thousand (\$50,000.00) dollars each year for a period of twenty (20) years, to be computed from the first day of January, A.D. 1910, and

Whereas it is in the interest of the said Town of Campbellford that the manufacturing plant of the Company should be extended, and it is expedient to fix the assessment of the said Company on the aforesaid property at the amount and for the period above set forth, and the Council and the said Company have agreed to the terms and conditions set forth in this By-law, and

Whereas the Company have agreed to defray the expense of preparing and submitting this By-law to the qualified electors, and of applying for the necessary legislation validating and making operative the same;

Be it therefore enacted, by the Municipal Corporation of the Town of Campbellford:

1. The assessment of all and singular those certain parcels or tracts of land and premises owned, occupied and used by The Trent Valley Woollen Manufacturing Company, Limited, situate, lying and being in the Town of Campbellford, in the County of Northumberland, and Province of Ontario, being composed of lots "A" and "B" and lots numbers 1, 2, 3, 4, 5, 6, 7 and 8, in west factory block on the west side of River Trent according to the registered plan of said town, and the water lot north of The Trent Valley Mill, known as the Winn lot, and all lands hereafter acquired, together with all buildings, plant, machinery and fixtures now or at any time hereafter thereon or therein and all water privileges connected therewith and all other assessable property of the Company now or at any time hereafter on said lands while used exclusively for manufacturing purposes, or the part so used for manufacturing purposes for a period of twenty years to be computed from the first day of January, 1910, shall, subject to the following clauses of this By-law be annually assessed en bloc for all purposes except Local Improvement taxes at the sum of fifty thousand dollars and no more as a fixed assessment while the same are so used and while at least two hundred and twenty (220) hands are employed therein for at least eleven months of each year, being seventy hands more than the average number of hands employed in said works during the five years above referred to, and the said lands shall be liable for all Local Improvement assessments, rates and taxes that may be charged against the same.

2. Provided, however, that if The Trent Valley Woollen Manufacturing Company, Limited, in any year during the said period of twenty years fail or neglect to operate and carry on the said manufacturing establishment and to employ and keep employed therein 220 hands during at least eleven months in each year, then in each and every such case the said Company shall forfeit its right to such fixed assessment for the succeeding year, and in case the said Company fail to operate the said plant and employ and keep employed the number of hands as aforesaid for a period of two consecutive years, then the said Company shall forfeit its right to such fixed assessment altogether, and the said lands, buildings, plant, machinery and fixtures and water privileges and the business assessment thereof shall be assessed and fixed as provided by the Assessment Act then in force, provided always that if the failure to carry on the said business is due to strikes or to the destruction or partial destruction of the buildings, plant and machinery and fixtures by fire or tempest or the failure of the supply of power from any cause not due to the default of the Company, the time during which the said business shall so cease to be carried on in consequence of such strikes, destruction or partial destruction of the buildings, plant, machinery or fixtures or failure of supply of power, not exceeding in either case one year, shall not be taken as a failure or neglect to carry on the said business so as to disentitle the said Company to such fixed assessment, and such year shall not be computed as part of said period of two years.

3. Provided further in case any part of said lands shall be used for the purpose of dwelling houses, or for any other purposes not connected with the business of the Company, such part or parts with the land appurtenant to such dwellings, when and so long as used for such purposes, shall be assessable as if this By-law had not been passed.

4. The Assessors and other Officers making such assessment are hereby authorized and required to so make their assessment and returns as to conform to the provisions of this By-law.

5. The said Company will erect on their lands in Campbellford suitable buildings equipped with machinery, plant and power, and if necessary develop power on lands adjacent thereto for the manufacture of woollens, worsted, textile or other goods at a cost of not less than twenty-five thousand dollars, and they will commence building operations immediately upon the passing of the By-law hereinbefore referred to by the Council of said Corporation, and have the same fully complete as a going concern on or before the first day of March, 1910.

6. Provided, however, that in case the said building and plant is not completed in the manner and time aforesaid, the said Company shall forfeit all right to such fixed assessment.

7. The said The Trent Valley Woollen Manufacturing Company, Limited, shall keep time books and pay rolls showing the names of the hands and the days worked by each, open for the inspection at all times of the said Corporation, and shall, prior to the first day of March in each year, file with the Town Clerk a statutory declaration made by an Officer of the Company, who shall therein state his knowledge of the facts, proving that the said Company has complied with and is observing all the terms, conditions and provisions of this By-law, and on neglect of the said Company to furnish such declaration for a period of fifteen days after notice in writing by the Town Clerk to the said Company, it shall be *prima facie* taken that such terms, conditions and provisions have not been performed, observed and kept, and the said Company shall not be entitled to the said fixed assessment for the year in which such neglect or default occurs.

8. Application shall be made by the said Municipal Corporation to the Legislature of the Province of Ontario at its next session to confirm this By-law and to carry the provisions thereof into effect, the Company defraying the expenses of such application to validate the same.

9. This By-law shall come into force and take effect upon and only upon the confirmation thereof by the Legislature of the Province of Ontario.

The Votes of the Electors of the said Town of Campbellford shall be taken on this By-law on Monday, the tenth day of May, A.D. 1909, commencing at the hour of nine o'clock in the forenoon and continuing until five o'clock in the afternoon of the same day by the following Deputy Returning Officers and Poll Clerks, and at the following places, that is to say :—

Polling subdivision No. 1 at the Town Hall, Nathan Grills, Deputy Returning Officer ; John Govan, Poll Clerk.

Polling subdivision No. 2 at F. E. Gaudrie's Office, F. E. Gaudrie, Deputy Returning Officer ; Robert McGregor, Poll Clerk.

Polling subdivision No. 3 at Charles Davidson's store, Charles Keir, Deputy Returning Officer ; Harry Rowed, Poll Clerk.

Polling subdivision No. 4 at John Harris' Sale Rooms, Robert Lowry, Deputy Returning Officer ; Milo Hawley, Poll Clerk.

On Tuesday, the 4th day of May, A.D. 1909, the Mayor of the said Town of Campbellford shall attend at the Office of the Clerk of the said town, at the hour of eleven o'clock in the forenoon, for the purpose of appointing in writing, signed by himself, two persons to attend at the final summing up by the Town Clerk, of the votes polled on this By-law, and also to appoint one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the passing of the By-law and a like number on behalf of the persons interested in and desirous of opposing the passing of this By-law.

That the Clerk of the Council of the said Town of Campbellford shall attend at his office in the Town of Campbellford at the hour of eleven o'clock in the forenoon on Tuesday the Eleventh day of May, A.D. 1909, to sum up the number of votes given for and against this By-law.

Read a first and second time at the Town of Campbellford, this 10th day of April, 1909.

Read a third time and passed, signed and sealed, this 25th day of May, 1909.

(Sd.) W. J. DOXSEE,
Mayor.

(SEAL.)

(Sd.) E. C. WEST,
Clerk.

CHAPTER 112.

An Act to confirm an Agreement between the
Town of Cobalt and the Township of Coleman.*Assented to 19th March, 1910.*

Preamble.

WHEREAS the Municipal Corporation of the Town of Cobalt has by petition represented that by the Act passed in the 8th year of His Majesty's reign, Chaptered 73, it was authorized to borrow \$75,000 with the assent of the ratepayers qualified to vote on money by-laws, for the purpose of constructing a system of waterworks and a system of sewers; and whereas a By-law No. 53 has been submitted to and approved of by such ratepayers; and whereas the township of Coleman was authorized by the said Act to guarantee the debentures to be issued thereunder, and has passed By-law No. 94 for that purpose; and whereas the said corporations have entered into the agreement set out in schedule "A" hereto setting forth the terms and conditions on which the guarantee of the Township of Coleman is to be given; and whereas the Corporation of the Town of Cobalt has prayed that an Act may be passed to validate and confirm the said agreement; and whereas it is expedient to grant the prayer of the said petition:—

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Agreement
set out in
Schedule "A"
confirmed.

1. The agreement dated the 1st day of November, 1909, set out as Schedule "A" hereto made between the Corporation of the Town of Cobalt, the Corporation of the Township of Coleman and certain persons therein named as "Water Commissioners," is ratified and confirmed and declared to be legal, valid and binding.

SCHEDULE "A."

THIS AGREEMENT MADE THIS 1ST DAY OF NOVEMBER, 1909

Between the Corporation of the Town of Cobalt, hereinafter called Cobalt Corporation, of the first part; the Corporation of the Township

ship

ship of Coleman, hereinafter called the Coleman Corporation, of the second part; and Heman Humphrey Lang, Mayor of the said Cobalt Corporation, Arthur Ferland, Reeve of the said Coleman Corporation, and Rolla B. Watson, General Manager of the Nipissing Mining Company, Limited, hereinafter called the Water Commissioners, of the third part.

Whereas the said Cobalt Corporation has heretofore passed By-law number 53 of the said Corporation for the purpose of raising \$75,000 by the sale of debentures for the purpose of constructing a water works and sewerage system in the Town of Cobalt, which said by-law has heretofore been confirmed by the Ontario Railway and Municipal Board.

And whereas the said Coleman Corporation has heretofore passed By-law number 94 of the said Corporation for the purpose of guaranteeing the said debentures for the sum of \$75,000, so to be issued by the said Cobalt Corporation, which guarantee is to be given in pursuance of Chapter 73 of the Statutes of the Province of Ontario of 8 Edward VII., and which said by-law has heretofore been confirmed by the said Ontario Railway and Municipal Board.

And whereas the said guarantee, in pursuance of the said chapter 73, shall be endorsed or printed on each of the said debentures and shall be signed by the Reeve and Treasurer of the said Coleman Corporation under the Corporate Seal of the said Coleman Corporation.

And whereas the said Cobalt Corporation, for the purpose of securing the said Coleman Corporation against the said guarantee of the said Coleman Corporation so to be given, has agreed with the said Coleman Corporation to enter into these presents.

Now therefore in consideration of the premises and the sum of one dollar in hand paid by each of the said parties hereto to the other of them, the said parties hereto agree as follows:—

1. The said Cobalt Corporation hereby appoints the said parties of the third part Water Commissioners for the Town of Cobalt, and the said Water Commissioners shall have all the powers, rights, authorities and immunities as Water Commissioners of the Town of Cobalt as if the said parties of the third part had been appointed by by-law of the said Cobalt Corporation and the said by-law assented to by the electors of the Municipality of the Town of Cobalt in pursuance of sub-section 1, section 40 of chapter 235 of the Revised Statutes of Ontario, 1897.

2. The said Cobalt Corporation covenants, promises and agrees in each and every year to pay to the debenture holders of the said debentures and to the Treasurer of the Province of Ontario, respectively, sufficient money to pay the interest due to the said debenture holders and to pay the sinking fund to be paid to the Treasurer of the Province of Ontario in each year during the currency of the said debentures and to pay such sums as and when required by the exigency of the said debentures and the said by-law number 53 of the Cobalt Corporation.

3. Provided always that all proceeds of water rents and water rates when paid over by the said Water Commissioners to the said Cobalt Corporation, pursuant to section 47 of the said chapter 235 of the Revised Statutes of Ontario, shall forthwith by the said Cobalt Corporation be paid to the Treasurer of the Province of Ontario, such proceeds to be applied by the said Treasurer to augment the said sinking fund to be paid to him under the immediately preceding paragraph hereof, and such payments of said proceeds shall continue from time to time until the total amount that may be required to meet the said sinking fund has been fully paid to the said Treasurer of the Province of Ontario.

4. Provided always that when the said sinking fund has been fully provided for by the payments to be made to the Treasurer of the Province of Ontario under the two preceding paragraphs hereof, then and in such case the said parties hereto shall be at liberty to enter into such further or other arrangements as they may deem advisable for the purpose of carrying on the said water works system and protecting the interests of all parties hereunder concerned

cerned, and this agreement shall continue in force between the parties hereto until such further or other agreement is so entered into.

5. The said Cobalt Corporation covenants, promises and agrees to save and protect harmless the said Coleman Corporation on the guarantee of the said Coleman Corporation of the said debentures, and the said Cobalt Corporation shall levy in each year, in addition to all other sums levied by taxes, a sufficient sum by the special rate set forth in paragraph 3 of the said chapter 73 of the Statutes of the Province of Ontario, 8 Edward VII., to pay all moneys required to be paid under the third preceding paragraph hereof, and the sums levied by the said special rate shall be set aside as a trust fund to pay from year to year all the said sums so required to be paid by the said preceding paragraph hereof.

6. The said Water Commission shall always consist of the Mayor of the Town of Cobalt for the time being, the Reeve of the Township of Coleman for the time being, and the General Manager of the Nipissing Mining Company, Limited, for the time being; but the said Reeve of the Township of Coleman and the said General Manager of the Nipissing Mining Company, Limited, shall not be required to possess the property qualification required by sub-section 3, section 41, chapter 235 of the Revised Statutes of the Statutes of Ontario, 1897.

7. The said Cobalt Corporation and the said Coleman Corporation covenant, promise and agree to mutually assist in obtaining legislation from the Province of Ontario to validate this agreement.

In witness whereof the said Cobalt Corporation and the said Coleman Corporation have hereunto set their Corporate Seals and the hands of their proper officers in that behalf, and the said parties of the third part have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of—

(Sgd.) "H. H. Lang,
Mayor.
"A. Ferland,"
Reeve.
"R. B. Watson."

(Seal) "H. H. Lang,"
Mayor.
"R. L. O'Gorman,"
Clerk.

(Seal) "A. Ferland,"
Reeve.
"P. J. Hart,"
Clerk.

CHAPTER 113.

An Act respecting the Town of Durham.

Assented to 19th March, 1910.

WHEREAS the Municipal Corporation of the Town of Preamble.

Durham has by petition represented that By-law No. 568, set out as Schedule "A" hereto, was submitted to the qualified ratepayers on the 3rd day of January, 1910, when out of 306 persons entitled to vote 188 voted for and 66 against the said by-law authorizing the said Corporation to guarantee the due payment of the Debentures of the said "The McGowan Milling Company" to the amount of Fifteen Thousand Dollars, according to the terms of the said Debentures; and whereas the said Company has given to the said Corporation a mortgage, set out as Schedule "B" hereto, on its property in the said Town to indemnify the said Corporation from any loss which might accrue on account of such guarantee; and whereas the said Corporation has prayed that an Act may be passed to validate, ratify and confirm the said By-law and mortgage, and to declare the same to be legal, valid and binding; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. By-law No. 568 of the Corporation of the Town of Durham, set out in Schedule "A" hereto, is hereby ratified and confirmed and declared to be valid and binding upon the said Corporation, and the ratepayers thereof, and the said Corporation is hereby authorized and empowered to do all necessary and proper acts for the full and proper carrying out of the provisions of said By-law.

By-law No. 568 of Town of Durham, guaranteeing debentures of McGowan Milling Co., confirmed.

2. The mortgage deed given by the said Company to the said Corporation, set out as Schedule "B" hereto, is ratified and confirmed and declared to be legal and binding on the parties thereto.

Mortgage deed confirmed.

SCHEDULE A

SCHEDULE "A."

BY-LAW No. 568.

OF THE MUNICIPAL CORPORATION OF THE TOWN OF DURHAM

A By-law guaranteeing Debentures of "The McGowan Milling Company" of the Town of Durham.

Whereas "The McGowan Milling Company" of the Town of Durham, in the County of Grey, has erected an oatmeal mill and grain elevator within the limits of the Corporation of the Town of Durham, and the total cost thereof when fully completed will be the sum of Thirty Thousand Dollars or over;

And whereas in order to the full completion, erection and equipment of the said oatmeal mill and elevator, it will be necessary for the said "The McGowan Milling Company" to borrow the sum of Fifteen Thousand Dollars, which said sum of Fifteen Thousand Dollars shall be applied to the completion, erection and equipment of the said oatmeal mill and elevator, and not otherwise;

And whereas the said "The McGowan Milling Company" propose to issue Debentures of the said Company to the amount of Fifteen Thousand Dollars for the purpose aforesaid; and has applied to the Municipal Council of the Corporation of the Town of Durham to guarantee the debentures of the said "The McGowan Milling Company" to the said amount of Fifteen Thousand Dollars;

And whereas the said debentures of "The McGowan Milling Company" will sell more readily if guaranteed by the said Corporation of the Town of Durham, and the said Municipal Council, in view of the circumstances, and the benefit likely to accrue to the said Town and community from the erection of the said oatmeal mill and elevator, deem it expedient to guarantee the due payment of the said debentures upon maturity thereof, respectively;

And whereas it is desirable to issue the said debentures at one time and to make the principal of the said debt repayable by yearly sums, during the period of twenty years, being the currency of the said debentures, said yearly sums being of such respective amounts that the aggregate amount payable in each year for principal and interest in respect of the said debt, shall be as nearly as possible equal to the amount so payable in each of the other Nineteen years of said period, as shown in Schedule "A" hereto annexed;

And whereas the amount of the whole rateable property of the Town of Durham, according to the last revised assessment roll thereof, is \$615,741.00;

And whereas the amount of the existing debenture debt of the said Municipality is \$52,927.41, whereof no part of the principal or interest is in arrear;

Be it therefore enacted by the Municipal Council of the Corporation of the Town of Durham, and it is hereby enacted as follows:

1. That the said Corporation of the Town of Durham, to hereby guarantee the due payment of the debentures of the said "The McGowan Milling Company" to the amount of Fifteen Thousand Dollars, to be issued as aforesaid, according to the terms of the said debentures;

2. The said debentures shall bear interest at the rate of five per centum per annum, payable yearly at the Standard Bank of Canada in each year during the currency thereof, and shall be issued for the aggregate amount, including both the interest and the annual instalment of principal, due in each year during the period for which the said debentures shall run.

3. That upon each of the said debentures respectively, shall be written or printed the following form of guaranty: "Payment of 'this debenture, and the interest thereon, guaranteed by the Corporation of the Town of Durham, under By-law No. 568, passed the 7th day of February, A.D. 1910."

4. The Mayor of the said Town of Durham is hereby authorized and directed to sign the said guaranty on each of the said debentures on the behalf of the said Corporation of the Town of Durham, and the Clerk of the said Corporation is hereby authorized and directed to countersign the same respectively, and to affix thereto the Corporate Seal of the Corporation of the Town of Durham.

5. When so signed the said Corporation of the Town of Durham shall be liable to the holder or holders of the said debentures and responsible for the due payment thereof at the time and place named therein respectively.

6. This By-law shall come into force and take effect on and after the final passing thereof.

7. The votes of the electors of the said Town of Durham shall be taken on this By-law at the following times and places, that is to say:—On Monday, the Third day of January, A.D. 1910, commencing at the hour of nine o'clock in the forenoon and continuing until five o'clock in the afternoon of the same day, by the following deputy returning officers:

In North Ward at Clifton Elvidge's house by Clifton Elvidge as deputy returning officer.

In East Ward at the Town Hall by Herbert H. Mockler as deputy returning officer.

In West Ward at John Snell's office by John Smith as deputy returning officer.

8. On Saturday, the First day of January, A.D. 1910, the Mayor of the said Town of Durham shall attend at the office of the Town Clerk of the Town of Durham at ten o'clock in the forenoon to appoint persons to attend at the various polling places aforesaid, and at the final summing up of the votes by the Clerk, on behalf of the persons interested in and promoting or opposing the passing of this By-law respectively.

9. The Clerk of the Council of the said Town of Durham shall attend at his office in the Town of Durham, on Tuesday, the Fourth day of January, A.D. 1910, at the hour of ten o'clock in the forenoon, to sum up the number of votes for and against this By-law.

Dated at the Council Chamber in the Town of Durham, this 7th day of February, A.D., 1910.

(Signed) W. LAIDLAW,
Mayor.

(Signed) WM. B. VOLLET,

Clerk.

Schedule "A."

Referred to in foregoing By-law.

Year.	Principal.	Interest.	Total
1911	\$ 453 64	\$ 750 00	\$ 1,203 64
1912	476 32	727 32	1,203 64
1913	500 14	703 50	1,203 64
1914	525 14	678 50	1,203 64
1915	551 40	652 24	1,203 64
1916	578 97	624 67	1,203 64
			1917.

1917	\$607 92	\$595 72	\$1,203 64
1918	638 32	565 32	1,203 64
1919	670 23	533 41	1,203 64
1920	703 74	499 90	1,203 64
1921	738 93	464 71	1,203 64
1922	775 88	427 76	1,203 64
1923	814 67	388 97	1,203 64
1924	855 40	348 24	1,203 64
1925	898 17	305 47	1,203 64
1926	943 08	260 56	1,203 65
1927	990 24	213 40	1,203 64
1928	1,039 75	163 89	1,203 64
1929	1,091 74	111 90	1,203 64
1930	1,146 32	57 32	1,203 64
	<hr/>	<hr/>	<hr/>
	\$15,000 00	\$9,072 80	\$24,072 80

SCHEDULE "B."

This indenture made (in duplicate) the 7th day of February, in the year of our Lord 1910, in pursuance of the Act respecting Short Forms of Mortgages, between Robert McGowan and William McGowan, both of the Town of Durham, in the County of Grey, Millowners, trading under the name and firm of "The McGowan Milling Company" (unmarried men), hereinafter called the mortgagors of the first part, and the Municipal Corporation of the Town of Durham, in the County of Grey, hereinafter called the mortgagees of the second part.

Whereas the Mortgagees on the security of these presents have agreed to endorse or guarantee the debentures of the Mortgagors for the sum of \$15,000, which debentures, with interest thereon, will become due and payable by annual instalments of \$1,203.64 during each and every year for the period of twenty years from the date hereof, as shown in Schedule "A" hereto annexed:

And whereas the Mortgagors have agreed to execute these presents for the purpose of indemnifying the Mortgagees from the payment of the said debentures or any part thereof, or of any debentures which may hereafter be given by way of renewal of the said debentures or of any interest to accrue thereunder or otherwise howsoever;

Now this indenture witnesseth that in consideration of the premises and of one dollar now paid by the Mortgagees to the Mortgagors (the receipt whereof is hereby acknowledged) the Mortgagors do grant and mortgage unto the Mortgagees, their successors and assigns forever, all and singular, those certain parcels or tracts of land and premises situate, lying and being in the Town of Durham, in the County of Grey and Province of Ontario, and being composed of, First: Lots Nos. 17 and 18 east of Garafraxa Street, and lots Nos. 17 and 18 west of Albert Street (except those portions of the said four lots comprised in and conveyed to the Walkerton and Lucknow Railway Company by an Indenture of Conveyance, dated the 12th day of February, 1909 (registered in the Registry Office for the south riding of the said County, on the 2nd day of March, 1909), and made between one Joseph Samuel Edge of the one part and the said Walkerton and Lucknow Railway Company of the other part, and also except that portion of the said lot No. 17 east of Garafraxa Street, vested by the said Joseph Samuel Edge in the Corporation of the Town of Durham, by indentures dated respectively the 2nd day of July, 1895, and the 10th day of January, 1901, and (by way of grant and not of exception), Second: All that parcel of land situate east of Albert Street, west of Rock Street, and south of Chesterle Street, delineated on the map annexed to these presents and thereon enclosed within a red line, comprising lots Nos. 18B and 19 and parts of lots Nos. 17, 18, 20 and 21 east of Albert Street, lots Nos. 18B, 19 and 20 and parts of lots Nos. 17, 18, 21 and 22 west of Elgin Street, lots Nos. 19 and 20 and parts of lots Nos. 17, 18, 21 and 22 east

of

of Elgin Street, lots Nos. 19, 20 and 21 and parts of lots Nos. 13 and 22 west of Kincardine Street, and parts of the closed portions of Elgin Street and Kincardine Street and part of Block B, and more particularly described as follows: (that is to say), Commencing at the point of intersection of the northern line of limit of the right-of-way of the said Walkerton and Lucknow Railway Company with the eastern limit of Albert Street, thence south $81^{\circ} 46'$ east 2.43 chains, thence north $45^{\circ} 21'$ east 4.98 chains, thence north $66^{\circ} 15'$ east 5.855 chains, thence north $67^{\circ} 40'$ east 4.52 chains, thence north $88^{\circ} 08'$ east 4.695 chains, thence south $81^{\circ} 32'$ east 4.615 chains, thence south $82^{\circ} 22'$ east 3.465 chains, thence north $9^{\circ} 53'$ west 3.25 chains along the western limit of Rock street aforesaid, thence north $66^{\circ} 25'$ west 6.575 chains, thence north $40^{\circ} 53'$ west 4.61 chains, thence south $83^{\circ} 32'$ west 10.76 chains along the southern limit of Chesterle Street aforesaid, thence south $50^{\circ} 45'$ west 12.74 chains, thence south $9^{\circ} 53'$ east 5.69 chains along the eastern limit of Albert Street aforesaid, more or less respectively, to the place of beginning, and Thirdly: That part (if any) of lot No. 17 east of Albert Street lying north of the northerly line of limit of the right-of-way of the said Walkerton and Lucknow Railway Company, and those parts of lots Nos. 17 and 18 west of Elgin Street lying north of George Street and those parts of lots Nos. 17 and 18 east of Elgin Street, which respectively are not comprised in the said premises secondly hereinbefore granted. Together with such right as the Mortgagors are entitled to, to back the water of the Saugeen River up to a point two chains and forty links easterly from the easterly limit of Rock Street in the said Town of Durham, and also together with the full benefit of, but subject to the restrictions and conditions attached to the reservation in the said Indenture of Conveyance of the 12th day of February, 1909, contained to the said Joseph Samuel Edge, his heirs and assigns, as owner and occupier or owners and occupiers of (amongst other hereditaments) the said premises hereinbefore granted of placing and maintaining pipes or tubes not exceeding two in number in the bed of the Saugeen River within the line of limit of the right-of-way of the said Walkerton and Lucknow Railway Company for the purposes in the said Indenture of Conveyance mentioned, together with all the plant, engines, boilers, machinery, shafting, belting, pulleys, implements, utensils and effects in, about, or belonging to the oatmeal mill and grain elevator and lands and yards thereof, used or employed in the said trade or business of manufacturing and whether the same be of the class enumerated or not, it being hereby declared by the Mortgagors that the same form part of the realty hereby mortgaged and are not chattel property;

Provided this Mortgage to be void on payment of the said debentures according to the terms thereof, upon the maturity of the said debentures as they respectively become due and payable, as shown in Schedule "A" hereto annexed, and payment of the said debentures may be made to the holder or holders thereof respectively, and such payment will satisfy this proviso, and taxes and performance of statute labor;

It is agreed that this Mortgage is taken as collateral security only for the due payment of the said debentures and that none of the rights or remedies of the holder of the said debentures or any of them shall be merged in or prejudiced in any way by the acceptance of these presents as a collateral security therefor;

And the Mortgagors covenant with the Mortgagees that the Mortgagors will pay the Mortgage money and interest and observe the above proviso;

That the Mortgagors have a good title in fee simple to the said lands, and that they have the right to convey the said lands to the Mortgagees and that on default the Mortgagees shall have quiet possession of the said lands free from all encumbrances. And that the Mortgagors will execute such further assurances of the said lands as may be requisite. And that the Mortgagors have

done no act to encumber the said lands. And that the Mortgagors will insure the buildings on said lands to the amount of not less than \$15,000;

And the Mortgagors do release to the Mortgagees all their claims upon the said lands, subject to the said provisos:

Provided that the Mortgagees on default of payment for one month may on one month's notice, enter on and lease or sell the said lands. Provided that the Mortgagees on default of payment for two months may, without giving any notice, enter on and lease or sell the said lands;

Provided that until default of payment, the Mortgagors shall have quiet possession of the said lands.

In witness whereof the parties hereto have hereunto set their hands and seals.

Signed, sealed and delivered
in presence of
MYRTLE DONALDSON.

THE MCGOWAN MILLING CO,
Per W. A. MCGOWAN.

SCHEDULE "A."

Referred to in the Mortgage hereto annexed:

Year.	Principal.	Interest.	Total.
1911	\$ 453.64	\$ 750.00	\$ 1,203.64
1912	476.32	727.32	1,203.64
1913	500.14	703.50	1,203.64
1914	525.14	678.50	1,203.64
1915	551.40	652.24	1,203.65
1916	578.97	624.67	1,203.64
1917	607.92	595.72	1,203.64
1918	638.32	565.32	1,203.64
1919	670.23	533.41	1,203.64
1920	703.74	499.90	1,203.64
1921	738.93	464.71	1,203.64
1922	775.88	427.76	1,203.64
1923	814.67	388.97	1,203.64
1924	855.40	348.24	1,203.64
1925	898.17	305.47	1,203.64
1926	943.08	260.56	1,203.64
1927	990.24	213.40	1,203.64
1928	1,039.75	163.89	1,203.64
1929	1,091.74	111.90	1,203.64
1930	1,146.32	57.32	1,203.64
	<u>\$15,000.00</u>	<u>\$9,072.80</u>	<u>\$24,072.80</u>

CHAPTER 114.

An Act respecting the City of Fort William.

Assented to 19th March, 1910.

WHEREAS The Corporation of the City of Fort Wil- Preamble.
liam has by petition represented that By-law No. 726 set forth in Schedule "A" to this Act was given three publications with slight modifications in a newspaper published at Fort William during the week prior to the date of voting thereon and in addition thereto the agreement mentioned in such by-law was publicly discussed and referred to in the local newspapers prior to such publications; and whereas the said Corporation has by petition further represented that By-laws Numbered 728, 729, 730, 731, 732, 733, 734, 736 and 737 respectively of the said City set forth in this Act, were each published for at least three successive weeks, in a newspaper published at Fort William, within five weeks prior to the day of voting thereon; that each of the said by-laws was submitted to the electors of the said City entitled to vote on money by-laws at the General Municipal Elections held on Monday, the 3rd day of January, 1910; that out of 2605 votes entitled to be polled in respect of such by-laws, 554 were non-resident and the following was the result of the polling in respect of each of the said by-laws: By-law No. 726, 643 votes in favour of and 208 votes against; By-law No. 728, 438 votes in favour of and 391 votes against; By-law No. 729, 540 votes in favour of and 299 votes against; By-law No. 730, 500 votes in favour of and 352 votes against; By-law No. 731, 520 votes in favour of and 323 votes against; By-law No. 732, 546 votes in favour of and 323 votes against; By-law No. 733, 620 votes in favour of and 240 votes against; By-law No. 734, 664 votes in favour of and 197 votes against; By-law No. 736, 470 votes in favour of and 378 votes against; By-law No. 737, 488 votes in favour of and 386 votes against; that each of the said by-laws received its third reading and was finally passed by the Council of the said City, on Tuesday, the Eleventh day of January, 1910; and whereas the said Corporation has by petition further represented that its source

of water supply is from Loch Lomond, a lake situate in the mountains partly in the Fort William Indian Mission Reserve and partly in the Township of Blake, in the Municipality of Neebing, some four miles south of the limits of the City of Fort William; that the City has invested in its waterworks about \$800,000; that it is absolutely necessary in order to protect said source of supply that the City should acquire the Islands situate in such lake, as well as the lands situate on each side of Carp River (a stream running from Loch Lomond to Lake Superior) as well as the lands embraced in the watershed of Loch Lomond; that the said By-law No. 729 of the said City submitted to and carried by the ratepayers of the said City as aforesaid was for the purpose of raising money to acquire the Islands in the said Lake and practically all the lands embraced in the said watershed, except what lands are vested in the Crown; that the existing debenture debt of the said Corporation, exclusive of the local improvement debenture debt, amounts to \$2,089,056.00, made up as follows:

General Debenture Debt	\$572,955.69
School Debenture Debt	268,407.39
Street Railway Debenture Debt	222,000.00
Waterworks Debenture Debt	713,863.54
Electric Light Debenture Debt	158,829.38
Telephone Debenture Debt	153,000.00

in respect of which a sinking fund of \$308,088.93 has been provided; that the amount of the rateable property of the said Corporation, according to the last revised assessment roll, liable for the general taxation of the said Corporation is \$11,429,916 plus \$30,000 in cash paid by the Canadian Pacific Railway Company yearly; and that the amount of the rateable property of the said Corporation, according to the last revised assessment roll, liable to taxes for school purposes only is \$2,703,755; and whereas the said Corporation has by petition prayed for special legislation in respect of the above and other matters hereinafter set forth; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows;

By-law 726
confirmed.

1.—(1) By-law No. 726 of the said City, intituled, "A By-law to authorize a certain agreement with the Superior Rolling Mills Company, Limited," as set out in Schedule "A" hereto, is confirmed and declared to be legal, valid and binding.

(2) The agreement set out in Schedule "A" to said By-law No. 726 is confirmed and declared to be legal, valid and binding upon the Corporation of the City of Fort William and Superior Rolling Mills Company, Limited, and the said City is vested with full power and authority to carry out the terms and provisions of the said agreement on its part agreed to be carried out, observed or performed.

Agreement with Fort William and Superior Rolling Mills Co. confirmed.

(3) The Corporation of the City of Fort William is declared to have always had full power to acquire, have, hold, possess and enjoy the lands in the above in part recited agreement mentioned, and the said The Corporation of the City of Fort William may grant the said lands in fee simple, free from encumbrances, unto the Superior Rolling Mills Company, Limited, and upon such grant being made the said lands shall be vested in the Superior Rolling Mills Company, Limited, in fee simple, free from encumbrances.

Power to convey certain lands to Company.

2. The following By-laws of the said City:

By-law No. 728 intituled, "A By-law to authorize the making of a certain agreement with the Bell Telephone Company of Canada, Limited, and to raise the sum of Six Thousand Dollars by way of debentures necessary to enable the City to carry out its part of said agreement,"

By-law 728. Issue of debentures for \$6,000 re agreement with Bell Telephone Co. confirmed.

By-law No. 730 intituled "A By-law to raise the sum of \$52,500 by way of debentures to clean up the cost of construction of changing the source of supply of the waterworks system to Loch Lomond,"

By-law 730. Issue of debentures for \$52,500 re changing waterworks system confirmed.

By-law No. 731 intituled "A By-law to raise the sum of \$19,000 by way of debentures for the purpose of further improving and extending the Electric Light System of the said City,"

By-law 731. Electric light debentures for \$19,000 confirmed.

By-law No. 732 intituled "A By-law to raise the sum of \$137,000 by way of debentures to further improve and extend the street railway system of the said City,"

By-law 732. Debentures for \$137,000 extension of Street Railway confirmed.

By-law No. 733 intituled "A By-law to raise the sum of \$12,000 by way of debentures for the purpose of improving McVicar Street Subway and erecting a City Dock,"

By-law 733. Debentures for \$12,000 re McVicar Street Subway confirmed.

By-law No. 734 intituled "A By-law to authorize the Corporation of the City of Fort William to guarantee the bonds of the McKellar Hospital to the extent of \$6,000, and

By-law 734. Guarantee of bonds of McKellar Hospital for \$6,000 confirmed.

By-law No. 736, "A By-law to raise the sum of \$21,000 by way of debentures for the purpose of further improving and extending the Telephone System of the said City,"

By-law 736. Debentures for \$21,000 for extending telephone system confirmed.

are

are confirmed and declared to be legal, valid and binding, and any and all debentures now issued or which may or shall hereafter be issued thereunder (when so issued)) shall be legal and binding upon the said City Corporation and the ratepayers thereof.

Special tax
to meet
waterworks
debentures
and to form
a contingent
fund.

3. The Council of The Corporation of the City of Fort William may, by By-law, assess and collect a special tax or rate of not more than four cents per foot frontage in each year upon the several properties fronting or abutting upon any street, lane or highway in, through or along which waterworks mains are laid, whether the owners or occupiers thereof use the water or not, in order to assist in meeting the yearly interest on and to form a sinking fund for the payment of all debentures issued on account of the waterworks system, as well as with any surplus to provide "A Depreciation and Contingent Waterworks Fund" in connection with such system.

Power to
borrow for
extensions to
telephone sys-
tem without
assent of rate-
payers with
approval of
Ont. Ry. and
Municipal
Bd.

4. The Council of The Corporation of the City of Fort William may, from time to time, raise on the credit of the said Corporation such further sums as may be necessary to extend or improve the Telephone System of the said City or to pay the expense of any extensions or improvements thereof already made or completed, wholly or in part, and to pass by-laws for levying on the whole rateable property of the said Corporation an annual special rate sufficient to defray the yearly interest on the sums so expended, and to form an equal yearly sinking fund for the payment of the principal within a time not exceeding twenty years nor less than five years; and that in such cases it shall not be necessary to obtain the assent of the electors or ratepayers to such by-law or by-laws, provided the same are first approved of by *The Ontario Railway and Municipal Board*, it being shown to the satisfaction of such Board that the said extensions are or were necessary, and that a sufficient additional revenue will be derived therefrom to meet the annual special rate required to pay the new debt and interest, and provided also that on the final passing of such by-law or by-laws, three-fourths of all the members of the Council vote in favour of the same.

By-law 729.
Debentures
for \$16,000
re pur-
chase of
lands for
waterworks
system con-
firmed.

5.—(1) By-law No. 729 of the said City, intituled, "A By-law to raise the sum of \$16,000 by way of debentures to purchase certain lands from the liquidators of The Ontario Bank in connection with the watershed and shore of Loch Lomond," as set out in Schedule "B" hereto, is hereby validated and confirmed and declared to be and to always have been since the 11th day of January, 1910, a valid, legal and existing by-law of the said City, and the debentures now issued, or which may or shall hereafter be issued thereunder

when

(when so issued) shall be legal and binding upon the said City Corporation and the ratepayers thereof.

(2) The Corporation of the City of Fort William may acquire or purchase in connection with its waterworks system any land situate in the Fort William Indian Mission Reserve and any such land when and so soon as the same may be acquired or purchased shall form part of the City of Fort William. Power to acquire certain other lands.

6. By-law No. 737 of the said City, intituled, "A By-law to exempt the elevator being erected by Western Terminal Elevator Company, Limited, from taxation," as set out in Schedule "C" hereto, is confirmed and declared to be legal, valid and binding. By-law 737 exempting elevator of Western Terminal Elevator Co. confirmed.

7. Failure to comply with the provisions of Section 10, of *The Municipal Amendment Act, 1909*, shall not render invalid or illegal any by-law heretofore passed by the Council of the said City. Non-compliance with 9 Edw. VII, c. 73, s. 10, not to invalidate by-laws.

8. The Council of the said City may by by-law, without obtaining the assent of the Electors entitled to vote on money by-laws, amend By-law No. 707 of the said City intituled "A By-law to raise the sum of \$7,500 for the purpose of opening up and grading what is known as the Mission road, running along the South boundary of the city limits from at or near the Grand Trunk Pacific Bridge to Thunder Bay, and to issue debentures necessary therefor" by striking out "\$317.50" wherever the same occurs in the said by-law, and substituting therefor "\$337.50," and also by striking out "\$596.62" wherever the same occurs in the said by-law and substituting therefor "\$616.62," and such amendments when so made shall be deemed to have been made at the time of the passing of by-law No. 707. Authority to amend by-law No. 707.

9. The agreement between Charles R. Hosmer, Frederick W. Thompson and Herbert S. Holt of the First Part and the Corporation of the Town of Fort William of the Second Part set out as Schedule "D" hereto is ratified and confirmed and declared to be legal, valid and binding upon the parties thereto and upon the Kaministiquia Power Company, Limited, the assignees of the parties of the First Part. Provided that nothing herein contained shall increase or enlarge the powers, rights and privileges of the parties to the said agreement or of the said Company in respect of the Kaministiquia River and other rivers and water powers. Agreement between Chas. R. Hosmer, et al, and Fort William, confirmed.

SCHEDULE "A."

BY-LAW No. 726.

CITY OF FORT WILLIAM.

A By-law to authorize a certain agreement with the Superior Rolling Mills Company, Limited.

Whereas the city is desirous of having the said company establish a manufacturing industry in the City of Fort William upon the terms and conditions set forth in the agreement in Schedule "A" to this By-law;

Therefore, the Corporation of the City of Fort William enacts as follows:

1, It shall and may be lawful for the said corporation, and it is hereby empowered to enter into an agreement in the form set forth in Schedule "A" hereto with the Superior Rolling Mills Company, Limited, and the Mayor and Clerk of the said Corporation, for the time being, are hereby authorized to seal with the corporate seal, execute and deliver the same.

2 This by-law shall not come into force or effect until validated by the Legislative Assembly of the Province of Ontario at its next session, and until so validated and unless so validated shall have no force or effect.

3. That the votes of the electors of the said municipality entitled to vote on this by-law shall be taken on Monday, the third day of January, 1910, and the polls shall be held at the same hour, on the same day, at the same places, and by the same deputy returning officers and poll clerks as the municipal elections for 1910 will be held.

4. That on Friday, the thirty-first day of December, 1909, at the hour of ten o'clock in the forenoon, the Mayor of Fort William will attend at the office of the City Clerk for the purpose of appointing, in writing, signed by himself, two persons to attend at the final summing up by the City Clerk of the votes polled on this by-law, and also of appointing one person at each polling place on behalf of the persons interested in and desirous of promoting the passing of this by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of this by-law.

5. That on Tuesday, the fourth day of January, 1910. at the hour of ten o'clock in the forenoon, at the offices of the Clerk of the City of Fort William, the Clerk of the said city will proceed to sum up the number of votes given for and against this by-law.

Given under the corporate seal of the City of Fort William, as witnessed by the hand of its Mayor and Clerk, this eleventh day of January, A.D. 1910.

(Signed)

L. L. PELTIER,

Mayor.

(Seal)

(Signed)

A. McNAUGHTON,

Clerk.

Schedule "A" to By-law No. 726.

Memorandum of agreement made in duplicate this 26th day of January, 1910, between the Corporation of the City of Fort William (hereinafter called the City), of the first part, and Superior Rolling Mills Company, Limited, a body corporate, duly incorporated, and having its head office and principal place of business in the City of Fort William, and herein acting and represented by Herbert S. Holt, of the City of Montreal, in the Province of Quebec, its Vice-President, and George H. Coslett, of the City of Fort William, its Secretary-Treasurer, duly authorized for the purposes hereof (hereinafter called "the Company"), of the second part.

Whereas the Company is contemplating the establishment of a wire and nail works in the said City of Fort William, and the said

City

City has offered to assist the said enterprise by granting to the Company certain lands in fee simple, and making other concessions.

Now therefore this agreement witnesseth:

1. In consideration of the covenants and agreements on the part of the City, herein contained, the Company covenants and agrees with the City as follows:

(a) That the Company will forthwith deposit with the City a certified cheque for the sum of five thousand (\$5,000) dollars, as security for the due observance by the Company of the provisions of Clause (b) of this paragraph, said certified cheque to be returned to the Company on the terms hereinafter stated, and not otherwise.

(b) The Company will immediately upon ratification of this agreement by the ratepayers of the said City and by the Legislative Assembly of the Province of Ontario, deposit with the City a further certified cheque for the sum of twenty thousand (\$20,000) dollars, and simultaneously, weather permitting, begin the erection of and within eighteen months thereafter complete upon the said property and cause to be properly equipped all necessary and proper buildings, plant, machinery, wharves, docks, and tracks for the purpose of carrying on a modern and up-to-date wire and nail manufacturing business on the property aforesaid, and particularly for the manufacture of wire and nails, and such other products of iron, wood and steel as the company may determine. Said works to have a daily capacity (in twenty-four hours) of not less than fifty tons of manufactured goods, and the erection and equipment of the said plant shall cost in all not less than one hundred and fifty thousand dollars.

In the event of the Company depositing the said twenty thousand dollars as above, it will at the same time pay to the City, as and for the use and benefit of the city, the sum of one thousand dollars, to cover the cost of the City in connection with submission of by-law to the ratepayers, etc.

(c) The Company will during the period of fifteen years from the completion of the said works (accidents, strikes, and other circumstances beyond their control excepted) operate the said works and plant to the fullest extent that the state of the trade will permit, and that it will in such manufacture employ, and keep employed, in the said City in each and every year of the said period of fifteen years a sufficient number of men for a sufficient number of days to equal 100 men for two hundred and fifty days of ten hours each.

(d) All fire insurance placed or held by the Company upon any of its property situated in the City of Fort William shall be placed with the local agents, residing and carrying on business in Fort William, if the same can be placed at equal terms as those offered elsewhere.

(e) All men employed in and about the said works and the operation thereof shall reside, and continue to reside, during the course of such employment, in the City of Fort William.

(f) All men engaged by the said Company, or employed in or about the said works or manufacture, or employed by any contractor or sub-contractor or otherwise in the erection or operation of such plant and works shall be paid in cash in the City of Fort William, or by cheque on some bank in the City of Fort William.

(g) The Company is to have its head offices and works at the City of Fort William, and shall do all its manufacturing in and carry on all its business from the City of Fort William.

2. In consideration whereof the City covenants and agrees with the Company as follows:

(a) The City will and doth hereby exempt all the Company's property situated upon and including the lands aforesaid, which is used in connection with and solely for the purpose of such manufacture, including the raw material therefor and the products thereof, from all general municipal taxation of the City, excepting school taxes, for so long of the period of fifteen years, commencing with the year 1911, as the Company shall fully comply with the terms and conditions of this agreement, as herein set forth. The intention being that all dwelling houses, or other buildings used and occupied as dwellings which may be situated upon the lands above described, shall be liable to the general assessment and taxation of the City, and shall not be covered by the above exemption.

(b) Time to be of the essence of this agreement.

(c) The City will, in the event of the ratepayers and of the Legislature not approving of this agreement, return forthwith to the Company the amount of its deposit, together with savings bank interest thereon during the time such deposit shall remain in the hands of the City.

(d) That in the event of this agreement being ratified by the ratepayers and the Legislature, as aforesaid, and the Company depositing the further prescribed security and proceeding with the erection of the said works and plant, as herein agreed, the City will return the said deposit of twenty-five thousand dollars when and as soon as the Company shall have completed and commenced to operate the said buildings, plant, machinery and works, as aforesaid, with interest, as specified in paragraph 2, Clause (c).

(e) That the City will, upon deposit of the said prescribed deposits, aggregating \$25,000 (being the present value of such lands), with the City as aforesaid, grant, convey, and assure unto the Company, in fee simple, free from all encumbrances, all and singular that part of lots numbered nine (9) and ten (10), in the first concession of the Township of Neebing, north of the Kaministiquia River, now in the said City of Fort William, described as follows:

Commencing at a point on the south limit of Montreal Street, as recently established, distant west nine hundred (900) feet from Mountain Avenue; thence west and following the south limit of said Montreal Street five hundred and twenty-six feet (526) to a point; thence south and parallel with the east limit of said Lot Ten (10) to the northerly shore of the Kaministiquia River; thence easterly and following the northerly shore of the Kaministiquia River to the property of the Canada Iron Corporation, being a point on the said Kaministiquia River lying due south of the place of beginning; thence north to the place of beginning, together with the water lot on the Kaministiquia River, patented by the Crown, and now belonging to the party of the First Part, lying immediately south of the property above described, all of which contains by estimation ten (10) acres, more or less.

(f) Without limiting the liability of the Company or the remedies of the City hereunder, the Company shall forfeit and pay to the City, as liquidated damages, in each and every year of the period of fifteen years hereinbefore fixed for the operation of the said works in which a default is made by the Company in employing and keeping employed the number of men aforesaid, the sum of \$2,469.16, being the amount which would be required to be levied annually to provide the interest and sinking fund on a fifteen-year debenture for \$25,000 at four and one-half (4½) per centum per annum; and the City shall be entitled to a charge on the said lands

for all amounts which the Company shall become liable to forfeit and pay under this paragraph.

(g) This agreement shall extend to and be binding upon and extend to the successors and assigns of the Company and the City respectively.

(h) This agreement shall not come into force and effect until validated and confirmed by the Legislative Assembly of the Province of Ontario at its next session and until and unless so confirmed shall have no force or effect.

In witness whereof the corporate seal of the said Company and City respectively and the hands of their proper officers in that behalf.

Signed, sealed and delivered in the presence of:

The Corporation of the City of (Sgd.) WM. F. RANKIN,
Fort William, per Acting Mayor.

(Seal) (Sgd.) A. McNAUGHTON,
Clerk.

Superior Rolling Mills Company, (Sgd.) H. S. HOLT,
Limited. Vice-President.

(Seal) (Sgd.) GEORGE A. COSLETT,
Secretary-Treasurer.

SCHEDULE "B."

CITY OF FORT WILLIAM

BY-LAW No. 729.

A By-Law to raise the sum of \$16,000 by way of debentures to purchase certain lands from the Liquidators of the Ontario Bank in connection with the watershed and shore of Loch Lomond.

Whereas the City has a very large investment in its water supply from Loch Lomond and whereas it is essential that the said supply and such investment should be fully protected;

And whereas in the opinion of this Council it is necessary in order to afford such protection that the lands embraced in the watershed of Loch Lomond should be absolutely acquired by the City.

And whereas the Ontario Bank was possessed of some 8,440 acres around the shore of the said lake, and in certain islands in the lake, and the Liquidator of the said The Ontario Bank has agreed to sell the same to the City for the sum of \$15,000, together with interest hereon at six per centum per annum from the 9th of November, 1909.

And whereas it will require the sum of \$16,000 to be raised by way of debentures in order to take up such Option with interest and to pay the cost of and incidental to submitting this by-law and in connection with the sale of the debentures authorized hereby.

And whereas the said sum of \$16,000 is the amount of the debt intended to be created hereby;

And

And whereas the amount of the whole rateable property of the said City of Fort William, according to the last revised Assessment Roll is \$13,455,097.00;

And whereas the existing debenture debt of the said City exclusive of the local improvement debentures, amounts to \$2,089,056, made up as follows:

Street Railway Debenture Debt	\$222,000 00
Waterworks Debenture Debt	713,863 54
Electric Light Debenture Debt	158,829 38
Telephone Debenture Debt	153,000 00
General Debenture Debt	841,363 08

of which no part of the principal or interest is in arrear and for the payment of which a sinking fund of \$203,472.00 has been provided;

And whereas in order to provide for the said debt it is expedient to issue debentures of the said Corporation to the amount of \$16,000, bearing interest at four and one-half per centum per annum;

And whereas it will require the sum of \$720.00 to be raised annually for a period of forty years (the currency of the debentures to be issued under and by virtue of this By-law) to pay the interest on the said debt, and the sum of \$212.20 to be raised annually during the said period for the payment of the said debt intended to be created by this by-law, such last mentioned sum being sufficient with the estimated interest on the investment thereof to discharge the said debt when the same becomes due and payable, making in all the sum of \$932.20 to be raised annually as aforesaid for the payment of the said debt and interest:

And whereas it will require the sum of \$932.20 to be raised annually for a period of forty years by a special rate on the whole rateable property in the said City for the payment of the said debt and interest as aforesaid.

Therefore the Corporation of the City of Fort William enacts as follows:—

1. It shall and may be lawful for the said Corporation and it is hereby empowered to borrow the said sum of \$16,000 on the credit of the said Corporation for the purposes aforesaid and to issue debentures of the said Corporation to the amount of \$16,000 in sums of not less than \$100.00 each payable within forty years from the date of issuing such debentures and to bear interest at four and one-half per centum per annum, payable half-yearly on the First day of the months of February and August in each year respectively during the currency of the said debentures.

2. The said debentures shall bear date as of the day of issue thereof and shall be signed by the Mayor and Treasurer thereof and sealed with the Corporate seal.

3. During the said period of Forty years (the currency of the debentures to be issued hereunder) there shall be raised and levied annually upon the whole rateable property in the said City of Fort William, in addition to all other rates, levies and assessments, the said sum of \$720.00 to pay the interest on the said debentures and also the further sum of \$212.20 as a sinking fund for the payment of the said debt at the maturity thereof, making in all the said sum of \$932.20 to be raised annually as aforesaid.

4. The said debentures shall have attached thereto coupons for the payment of interest thereon and the said debentures as to principal and interest shall be payable at the following places,

namely:

namely: Office of the City Treasurer, Fort William, Canada; Bank of Montreal, Toronto, Canada; Bank of Montreal, Montreal, Canada, and Bank of Montreal, London, England.

5. Every debenture to be issued hereunder shall contain a provision in the following words, "This debenture, or any interest therein, shall not, after a certificate of ownership has been endorsed thereon by the Treasurer of this Municipal Corporation, be transferable, except by entry by the Treasurer or his Deputy in the Debenture Registry Book of the said Corporation, at the said City of Fort William," or to take effect.

6. This By-Law shall come into force on the day when the same is confirmed by the Legislative Assembly of the Province of Ontario at its next session, and failing such confirmation, and until such confirmation, this By-Law shall have no force or effect.

7. That the votes of the electors of the said Municipality entitled to vote on this by-law shall be taken on Monday, the Third day of January, 1910, and the polls shall be held at the same hour, on the same day, at the same places and by the same Deputy Returning Officers and Poll Clerks as the Municipal Elections for 1910 will be held.

8. That on Friday, the Thirty-first day of December, 1909, at the hour of ten o'clock in the forenoon, the Mayor of Fort William will attend at the office of the City Clerk for the purpose of appointing in writing, signed by himself, two persons to attend at the final summing up by the City Clerk of the votes polled on this by-law, and also of appointing one person at each polling place on behalf of the persons interested in and desirous of promoting the passing of this by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of this by-law.

9. That on Tuesday, the Fourth day of January, 1910, at the hour of ten o'clock in the forenoon at the Offices of the Clerk of the City of Fort William, the Clerk of the said City will proceed to sum up the number of votes given for and against this by-law.

Given under the Corporate seal of the City of Fort William as witnessed by the hand of its Mayor and Clerk, this Eleventh day of January, A.D. 1910.

(Signed) L. L. PELTIER,

Mayor.

(Signed) A. McNAUGHTON,

Clerk.

SCHEDULE "C."

CITY OF FORT WILLIAM

By-Law No. 737.

A By-Law to exempt the Elevator being erected by Western Terminal Elevator Company, Limited, from Taxation.

Whereas the Council of the Corporation of the City of Fort William did prior to the commencement of the construction of the elevator hereinafter mentioned undertake to submit this by-law to the electors of the city entitled to vote thereon and also assured the Western Terminal Elevator Company, Limited, of such exemption;

Now therefore the Corporation of the City of Fort William enacts as follows:

1. That the elevator now in the course of erection on the northerly bank of the Kaministiquia River at West Fort William, in the City of Fort William, by the Western Terminal Elevator Company, Limited, together with the lands acquired therefor and enjoyed

enjoyed in connection therewith, together with all other works connected with such elevator as a part thereof as a going concern, shall be and are hereby exempted from all taxation of the said City, excepting school taxes and local improvement rates, for so long a period from and after the first day of January, 1910, as the said elevator shall continue to be operated, not, however, in any case to exceed ten years from such date.

2. This exemption, however, is granted upon the express condition that such elevator when completed shall have a grain storing capacity of about one million bushels.

3. This by-law shall come into force on the day of the final passing thereof.

4. That the votes of the electors of the said municipality entitled to vote on this by-law shall be taken on Monday, the third day of January, 1910, and the polls shall be held at the same hour on the same day, at the same places and by the same Deputy Returning Officers and Poll Clerks as the municipal elections for 1910 will be held.

5. That on Friday, the thirty-first day of December, 1909, at the hour of ten o'clock in the forenoon, the Mayor of Fort William will attend at the office of the City Clerk for the purpose of appointing in writing, signed by himself, two persons to attend at the final summing up by the City Clerk of the votes polled on this by-law, and also of appointing one person at each polling place on behalf of the persons interested in and desirous of promoting the passing of this by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of this by-law.

6. That on Tuesday, the fourth day of January, 1910, at the hour of ten o'clock in the forenoon, at the offices of the Clerk of the City of Fort William, the Clerk of the said city will proceed to sum up the number of votes given for and against this by-law.

Given under the Corporate seal of the City of Fort William as witnessed by the hand of its Mayor and Clerk, this Eleventh day of January, A.D. 1910.

(Signed) L. L. PELTIER,

Mayor.

(Signed) A. McNAUGHTON,

Clerk.

SCHEDULE "D."

MEMORANDUM OF AGREEMENT made (in duplicate) this
day of _____, A.D. 1905:

BETWEEN

CHARLES R. HOSMER, Capitalist; FREDERICK W. THOMPSON, General Manager of Ogilvie Flour Mills Company, Limited, and HERBERT S. HOLT, President Montreal Light, Heat & Power Company, all of the City of Montreal, in the Province of Quebec, hereinafter called the "First Parties"

Of the First Part

—and—

THE CORPORATION OF THE TOWN OF FORT WILLIAM
hereinafter called the "Town"

Of the Second Part

Whereas the Town on the Eleventh day of April, A.D. 1904, entered into an agreement with Edward Spencer Jenison, which agreement is set forth as a schedule to an Act passed by the Legislature of the Province of Ontario in 1904, entitled "An Act to enable Edward
Spencer

Spencer Jenison to develop the Water Power of the Kaministiquia River;"

And whereas the said Jenison has since assigned, *inter alia*, all his rights under the said Act and the said contract to the first parties;

And whereas, the first parties have agreed with the said Jenison, subject to their obtaining legislation from the Legislature of the Province of Ontario to their satisfaction, and subject to an agreement with the Town, likewise to their satisfaction, to proceed with the development of the waterpower on the Kaministiquia River;

Now this Agreement witnesseth that in consideration of the mutual covenants and conditions herein contained the parties hereto agree as follows:

1. The first parties will establish at the Town of Fort William the principal place of business, head office and engineering office in connection with the construction of the works and of the development and the sale of power to be generated therefrom, including the head office of any Company which may be formed to take over the rights of the first parties or to carry out the said works, and will maintain the same at the Town of Fort William aforesaid.

2. After the institution of the necessary works to provide for the delivery of power at Fort William under the terms of this agreement, the first parties will from time to time increase the capacity of such works as electrical power may be required in the Town of Fort William for any ordinary permanent business purposes until all the power economically available shall have been developed.

3. On the completion of the said works the first parties shall be bound from time to time to supply to the Town such electrical power as may be generated from time to time at their hydraulic plant to the extent, and for the purposes hereinafter mentioned, but subject always to the terms and conditions of this contract and legislation ratifying the same.

4. The Town hereby agrees to take and the First Parties to supply for a period of twenty years next ensuing the time when the first parties shall be ready to supply the same and for the purposes and uses only hereinafter stated, at least six hundred (600) horse power of electrical energy, to be delivered by the first parties to the Town at some point in the Town hereafter mutually to be determined and the Town agrees to pay Fifteen Thousand dollars (\$15,000.00) per annum for such six hundred horse power, or such portion thereof as the Town shall use, payable monthly, at the rate of \$1,250 per month, on the fifteenth day of each month; if the Town shall require at any time to increase the amount of horse power so to be taken, it shall be entitled so to do, provided the additional power required is on hand and not contracted for and provided it shall take the same in additional units of twenty-five (25) horse power each, paying for the same at the rate of Six Hundred and Twenty-five dollars (\$625.00) per annum, payable monthly as aforesaid, for each additional unit of twenty-five horse power or portion thereof. This clause of the contract shall remain in force for twenty years from the time when the first parties shall be ready to deliver the first six hundred horse power, but the Town shall have the right to renew the same for a further period of twenty years, such renewal to be by notice to the first parties to be delivered in writing not later than one year before the expiration of the said twenty-year period.

5. The purposes for which the Town may require or use electrical power hereunder are as follows:—For lighting and heating of Municipal (including school) buildings; for lighting residences, mercantile and commercial establishments in the said Town, for

lighting

lighting the streets of the said Town, for operating a street railway in the said Town, for pumping purposes and otherwise to operate the waterworks and sewage of the said Town now or hereafter constructed, and for any other Municipal purpose. The Town may sell the said power for the power purposes to customers using not more than five (5) horse power at their maximum load, or may sell for such purposes up to ten (10) horse power maximum load for the purpose of running lifts in buildings where the customer is using power for no other purpose except lighting, and except as herein stated, the Town shall not use or sell the said power purchased from the first parties.

5a. The said First Parties shall not, nor shall their customers or their lessees have the right to sell, lease or otherwise dispose of, or supply electric light, or water, or power to generate electric light for any municipal, domestic or commercial purposes in the said Town of Fort William, nor shall the First Parties, their customers or lessees in any way supply water in the Town of Fort William, in competition with the Town during the existence of this agreement, provided however that any power customers of the first parties shall have the right, notwithstanding this proviso, to use any power purchased for their own lighting purposes.

6. The first parties shall have the right to erect, construct and maintain poles, wires and cables, over, under and along all suitable and necessary streets and lanes in the Town of Fort William, subject to reasonable designation by the Council thereof, but in so doing, the first parties shall use the lanes as much as possible and shall place such poles, wires and cables underground in any portion of said Town where the Council of said Town shall so decide to do with its own poles and wires, and shall otherwise interfere as little as possible with the use of the said streets or the rights of the said Town in regard thereto.

7. The First Parties agree that before they dispose of or contract for the last two thousand (2,000) horse power which shall be developed at their proposed works, they will notify the town of the fact that they intend to dispose of some part of such last two thousand (2,000) horse power, and the Town shall have ten (10) days from the receipt of such notice to state what part, if any, of the last two thousand horse power the said Town desires to take for any of the uses aforesaid, and in the event of the Town notifying the first parties that it intends to take any part of such two thousand horse power it shall thereafter take such portion under the terms of this contract, paying therefor from the date of its notice to the First Parties requiring the same, provided further that before the first parties shall dispose of or contract for their last one thousand horse power to be developed as aforesaid, they shall again notify the Town of their intention to dispose of or contract for some portion of such last one thousand horse power and the Town may within two (2) months thereafter notify the first parties what portion, if any, of such power it will require for any of the uses aforesaid, and in the event of the Town notifying the first parties that it will require any portion of such last one thousand horse power it shall thereafter take such portion under the terms of this contract, paying therefor from the date of its notice to the first parties requiring the same.

8. All capital property, rights and franchises necessary and used only for development and distribution of such power as well as the owners in respect thereof, shall be forever exempt from all Municipal taxes by the Town, except School taxes.

9. All provisions in this agreement shall be binding upon the successors and assigns of the first parties, and upon any bondholders, liquidator, receiver, corporation or person, who may hereafter control or manage the said works, and all such persons and corporations shall at all times be bound to carry out the stipulations and provisions of this agreement.

10. In the event of any difference arising as to the construction of this agreement or as to any matter or thing to be done or performed hereunder such difference shall be determined, if any party hereto so requires, by arbitrators appointed under and as provided by the terms of the Municipal Act.

11. No more favourable terms, condition or rates shall be offered or given by the said first parties in favour of any other Municipalities or place than those given to the Town, nor shall any more favourable rates, terms, or conditions be offered or given by the first parties in favour of any person, party or corporation in any other municipality or place than those given in the Town of Fort William.

12. Notwithstanding any provision contained in this agreement the Corporation of the Town of Fort William shall have the right to develop and produce electrical and other power, and may use, sell and lease the power so produced for any purpose whatsoever.

13. In the event of the said first parties at any time ceasing to operate the said works so as to fully comply with the terms of this agreement then the Corporation of the Town of Fort William may, after thirty days' notice requiring the said first parties to comply with this agreement and their failure to do so, take over such of the said works as may be necessary to fulfil all conditions of the said agreements at a value to be determined by arbitration under the provisions of The Railway Act, by a sole arbitrator, to be appointed by a Judge of the High Court of Justice of Ontario in case the parties hereto cannot agree.

14. In the event of the first parties incorporating a company for the purpose of constructing the said works or otherwise developing and operating the said power and of assigning to such company all of their rights respecting the development of said power existing at the time of such assignment, including this contract, then the covenants, benefits, rights and privileges of the first parties herein contained, shall thereafter be deemed to be covenants, benefits, rights and privileges of the corporation, and this contract shall thereafter be construed as if originally made between the said corporation of the first part and the Town of the second part, and the first parties shall thereafter be relieved from any personal covenants hereunder.

15. This contract shall be substituted as Schedule "A."

16. This contract is subject to the ratification hereof by the Legislature for the Province of Ontario.

In witness whereof the first parties have hereunto set their hands and seals and the Town of Fort William has caused its Corporate Seal to be affixed hereto, as witness the hands of its Mayor and Clerk.

Signed, Sealed and Delivered in the presence of

(Sgd.) E. S. RUTLEDGE,
Mayor.

(Sgd.) A. McNAUGHTON,
Town Clerk.

Witness:

WM. A. GANDLE.

(Sgd.) C. R. HOSMER,

F. W. THOMPSON,
Atty.

F. W. THOMPSON,

H. S. HOLT.

CHAPTER 115.

An Act respecting the City of Guelph.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Corporation of the City of Guelph has by petition represented that on the 10th day of August, 1908, it passed a By-law No. 672 with respect to the erection of an addition to the Winter Fair Building in the said city and to provide for the issue of debentures to the amount of \$10,000, for that purpose, and that through error and inadvertence the amount to be levied annually under the said by-law for sinking fund was incorrect and insufficient and that it is expedient that the said by-law should be amended and confirmed as so amended; that the Council of the said city did on the 13th day of December, 1909, pass By-law No. 742, for the issue of debentures to the amount of \$3,000, to provide for paying a judgment recovered against the Library Board of the said City of Guelph, by James McCann, for an unpaid balance of the costs of erecting the Library Building and the costs of litigation and for the removal of doubts, it is expedient that the same shall be confirmed; that on the 7th day of September, 1909, the said Council passed By-law No. 715, and on the 13th day of December, 1909, the said Council passed By-laws Nos. 725, 726 and 727, all to levy the costs of constructing certain local improvements and for the issue of debentures therefor, and it is expedient that the said last-mentioned by-laws should be confirmed, in order that the debentures issued thereunder may be more readily and profitably disposed of; and whereas it is further represented that provision should be made that no sale or other disposal of the stock held by or rights belonging to the Corporation of the said city in any Railway Company, and no sale or disposal of the Corporation's properties, known as its public utilities, shall be valid unless and until the assent of the electors of the said city, entitled to vote on by-laws creating debts be first given in manner required by *The Consolidated Municipal Act, 1903*, to any by-law to provide for such sale or disposal; and whereas it is further represented that the Acts relating to The Guelph

3 Edw. VII.
c. 19.

Radial

Radial Railway, which is the property of the said city, should be amended to provide for and facilitate the construction of a branch thereof to the new Central Prison Grounds near Guelph, and of other sections of branches of the railway of less than five miles in length and for other purposes in connection with The Guelph Radial Railway and that provision should be made to facilitate and authorize the acquisition by the said City Corporation of the shares of the stock of The Guelph Junction Railway Company, not now held in its name, and to empower the said Corporation to assent to such arrangements with respect to and for securing its rights in the said Company and Railway as may be authorized and the said Corporation has prayed that an Act may be passed to ratify and confirm the said by-laws and for the purposes hereinafter set forth; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The By-laws of the Corporation of the City of Guelph, specified in Schedule "A" hereto, and all debentures issued or to be issued thereunder, or in pursuance thereof, and all assessments made or to be made for the payment thereof, are confirmed and declared to be legal, valid and binding.

By-laws specified in Schedule "A" confirmed.

2. The Council of the Corporation of the City of Guelph is hereby authorized and empowered to pass a by-law to amend By-law No. 672 so as to correct and increase the amount to be levied annually for sinking fund, also to correspondingly increase the total amount to be levied annually thereunder, and such By-law No. 672 as and when so amended and all debentures thereunder and all assessments made or to be made for the payment thereof are confirmed and declared to be legal, valid and binding.

Power to pass a By-law to amend By-law No. 672.

3. No sale or other disposal of the stock held by or rights belonging to the Corporation of the City of Guelph in any railway company nor any sale or other disposal of the Corporation's properties, known as its public utilities, shall be valid unless and until the assent of the electors of the City of Guelph entitled to vote on by-laws creating debts be first given in manner required by *The Consolidated Municipal Act, 1903*, to any by-law to provide for such sale or disposal.

No sale of stock in railways or of other property of the Corporation to be valid unless assented to by vote of electors.

3 Edw. VII. c. 19.

4. The Acts relating to The Guelph Radial Railway Company are amended as follows: Section 3 of the Act Chaptered 95, passed in the third reign of His Majesty's reign, by striking out all the words therein between the word "fit" in the

Certain Acts relating to the Guelph Radial Railway amended.

twelfth line of the said section and the word "length" in the thirteenth line of the said section, and Section 5 of the Act Chaptered 91, passed in the fifth year of His Majesty's reign, by inserting after the word "branches" therein wherever the same occurs the words "or ⁴ sections thereof."

Power to
acquire shares
in the Guelph
Junction Rail-
way Co.

5. The Council of the Corporation of the City of Guelph is hereby empowered to acquire for the said Corporation any shares in The Guelph Junction Railway Company, not now held in the name of the said City Corporation, and to assent and give effect to such arrangements with respect to and for securing the rights and interests of the said City Corporation in the said Company and Railway as is or may be authorized by any Act of the Parliament of Canada.

SCHEDULE "A".

List of By-Laws providing for the issue of Debentures by the Council of the City of Guelph, on the dates hereinafter mentioned and for the purposes hereinafter referred to.

No. of By-Law.	Time.	Nature of work under By-Law.	Amount of Debt Created.	Time.	Rate.
724	13 Dec. 1909.	A By-Law to provide for the issue of debentures to the amount of \$3,000, to provide for paying a judgment recovered against the Public Library Board of the City of Guelph by James McCann, for an unpaid balance of the cost of erecting the Library Buildings and the costs of Litigation	3,000 00	10 years	5
715	7 Sep. 1909.	A By-Law for borrowing money by the issue of Debentures secured by Local Special Rates on the properties fronting or abutting on the several Streets as set out in Schedules to this By-Law annexed, and for other purposes as therein set forth	7,532 30	20 years	4½
725	13 Dec. 1909.	A By-Law to provide for borrowing money by the issue of Local Improvement Debentures to pay the cost of constructing an Asphalt Block Pavement on Carden Street in the City of Guelph	23,841 29	20 years	4¾
726	13 Dec. 1909.	A By-Law to provide for borrowing money by the issue of Debentures secured by Local Special Rates on certain property in the City of Guelph for House Sewer Connections.	8,241 75	14 years	4½
727	13 Dec. 1909.	A By-Law for borrowing money by the issue of Debentures secured by Local Special Rates, for the construction of sewers as herein set forth	16,064 93	30 years	4

CHAPTER 116.

An Act respecting The City of Hamilton.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Municipal Corporation of the City of Hamilton has by petition prayed for special legislation in respect of the several matters hereinafter set forth; and whereas the said Corporation represents that it is expedient that the same rate of taxation should be levied in the portions annexed to the said City by a Proclamation of the Lieutenant-Governor of the Province of Ontario, dated the 2nd day of July, 1891, as is levied in the older portion of the City and that the said annexed portion should thereafter be treated in the same manner with regard to assessment, taxation, local improvements and otherwise, as if the said portion so annexed had always formed part of the City and whereas no opposition has been offered thereto; and whereas the said Corporation represents that it is desirable and expedient for the City to acquire from the Government or from any corporation or person, the wet lands, lands covered with water and lands bordering thereon (or any portion thereof), in lots nine and ten in the broken front concession of the Township of Barton, now in the City of Hamilton, and that the City should be authorized to sell or otherwise part with or dispose of the same, or any portion thereof, upon such terms and conditions as to assessment (or otherwise) of the lands in lots nine and ten in the said broken front concession as the Council may deem expedient; and whereas the said Corporation represents that it is desirable that the Council thereof should be allowed to pass a by-law or by-laws authorizing the issue of debentures of an amount sufficient to raise not more than the sum of \$25,000 to defray the cost of additions to or extensions of the Nurses' Home on the City Hospital Grounds; and that the said Council should be allowed to pass a by-law or by-laws authorizing the issue of debentures to an amount necessary to defray the City's share of the cost of the construction of the West End Trunk Sewer from Garth Street to the proposed Sewage Disposal Works, to take care of the Asylum and local sewage, and the City's share of the cost of the said Sewage Disposal Works; and whereas the said Corporation represents that it is desirable that the Council thereof should be

be allowed to pass a by-law amending By-law No. 913 of the Council of the said Corporation set out and referred to in the Schedule "A" to this Act, by changing the date the debentures issued thereunder shall bear, and by changing the date the said debentures shall be made payable, and that it is desirable that the said By-law No. 913 as amended should be validated and confirmed; and whereas the whole rateable property of the said City according to the last revised assessment rolls is \$40,217,710; and the existing debenture debt of the said City, exclusive of the local improvement debt, is \$4,881,573.25, of which no part of the principal or interest is in arrear; and whereas it is expedient to grant the prayer of the said petition:

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The property in those portions of the City of Hamilton annexed thereto by a Proclamation of the Lieutenant-Governor of the Province of Ontario bearing date the 2nd day of July, 1891, and referred to in section 14, of Chapter 65, of the Acts passed in the 56th year of Her late Majesty's reign, shall on and after the 1st day of January, 1910, be liable for the same proportion of the whole debenture debt of the City of Hamilton, as property within the old boundaries of the City as such boundaries existed on the 1st day of January, 1891, and the taxes, assessments, debenture, local improvement and other rates to be levied and raised in respect of the said annexed territory for the year 1910 and thereafter, shall be same and payable at the same time as taxes, assessments, debenture, local improvement and other rates levied and raised from time to time on property within the old boundaries of the City as such boundaries existed on the 1st day of January, 1891.

Taxation of
property
added to
city by
Proclamation
of 2nd July.
1891.

(2) Should the City pass any by-law directing that future expenditure in the municipality for paving or macadamizing streets shall be by special assessment on the property benefited, any such by-law shall not apply, for the years 1910 to 1914 inclusive, to that portion of the City annexed by the said Proclamation of the 2nd day of July, 1891. The above shall not include sidewalks and curbs.

(3) After the said 1st day of January 1910, the property in the said annexed territory shall as regards the improvements mentioned in paragraph (d) of the said Proclamation of the 2nd day of July 1891, be treated as if the said portions so annexed had always formed part of the City of Hamilton.

(4)

(4) Section 14 of the Act passed in the 56th year of Her late Majesty's reign, Chaptered 65 and paragraphs (a), (b) and (d) of the said Proclamation of the 2nd day of July, 1891, are hereby repealed.

Authority to purchase and fix assessment of certain lands.

2.—(1) The Corporation of the City of Hamilton may pass by-laws for purchasing or acquiring from the Government or from any corporation or person, the wet lands, lands covered with water, and lands bordering thereon (or any part thereof) in lots nine and ten in the broken front concession of the Township of Barton (now in the City of Hamilton), and may, without obtaining the assent of the ratepayers, issue debentures to an amount not exceeding \$20,000 for the purchase of such lands, or any portion thereof, and for reclaiming or filling in the same or any portion thereof, and may sell or otherwise part with or dispose of the said lands or any portion thereof upon such terms and conditions as may be approved by the Ontario Railway and Municipal Board.

(2) The said Corporation may enter into agreements with any person for the filling in of the said wet lands and lands covered with water, and may enter into agreements with the owners of lands bordering thereon for filling in such lands and as compensation therefor the said Corporation may fix the assessment for a period not exceeding fifteen years, of the lands in said lots Nos. 9 and 10 in the said broken front Concession or any part thereof, at an amount which shall not be less than fifty per cent. of the full assessable value thereof.

Power to borrow \$25,000 for addition to Nurses' Home.

3. The Council of the Corporation of the City of Hamilton may, without submitting the same to the ratepayers qualified to vote on money by-laws, pass a by-law to authorize the issue of debentures to an amount sufficient to raise not more than the sum of \$25,000 for the costs of additions to or extensions of the Nurses' Home on the City Hospital Grounds, and for such purpose to issue debentures of the said Corporation in sums of not less than \$100 each, the principal to be payable at the end of twenty years from the time such debentures are issued, and the interest to be payable half yearly during the currency of such debentures at a rate not exceeding four per centum per annum, and to raise and levy annually by special rate on all the rateable property in the said municipality such sum or sums as may be necessary for payment of the said debt and interest.

Authority to borrow money for city's share of West End Trunk Sewer and Sewage Disposal Works.

4. The Council of the Corporation of the City of Hamilton may, without submitting the same to the ratepayers qualified to vote on money by-laws, pass a by-law to authorize the

issue

issue of debentures to an amount not exceeding \$110,000 to defray the City's share of the cost of the construction of the West End Trunk Sewer from Garth Street to the proposed Sewage Disposal Works, to take care of the asylum and local sewage and also the City's share of the cost of the said Sewage Disposal Works, and for such purpose to issue debentures of the said Corporation in sums of not less than \$100 each, the principal to be payable at the end of twenty years from the time such debentures are issued, and the interest to be payable half yearly during the currency of such debentures at a rate not exceeding four per centum per annum, and to raise and levy annually by special rate on all the rateable property in the said municipality, such sum or sums as may be necessary for payment of the said debt and interest.

5. The Council of the Corporation of the City of Hamilton may pass a by-law amending By-law No. 913 for raising \$200,000 for permanent roadways passed on the 10th day of January, 1910, set out in Schedule "A" hereto, by changing the date the debentures issued thereunder shall bear, from the 1st day of April, 1909, to the 1st day of April, 1910, and by changing the date the said debentures shall be made payable from the 1st day of April, 1929, to the 1st day of April, 1930; and the said By-law No. 913 as so amended and all the debentures to be issued thereunder and all assessments to be made and all rates to be levied for the payment thereof are hereby validated and confirmed.

By-law No.
913 to borrow
\$200,000
for permanent
roadways
confirmed.

SCHEDULE "A."

BY-LAW No. 913.

FOR RAISING \$200,000 FOR PERMANENT ROADWAYS.

Whereas it is desirable and necessary to substitute permanent asphalt pavements for certain worn-out roadways set forth in the schedule attached to this by-law, part of such roadways to be laid wholly with asphalt and part with creosote blocks and asphalt.

And whereas, it is estimated that the cost of such permanent pavements, including the cost of enlarging the city Asphalt Plant and the loss on the sale of debentures to be issued under this by-law, will amount to the sum of \$215,000 as shown by the said schedule attached hereto.

And whereas, pursuant to an Act of the Legislature of the Province of Ontario, passed in the ninth year of the reign of His Majesty King Edward VII, being Chapter 107, Statutes of Ontario, 1909, the Council of the City of Hamilton, by By-Law No. 846, passed on the 26th day of April, 1909, authorized the issue of debentures for the sum of \$125,000 to pay the City's share of the cost of construction of and improvements to permanent pavements on James street between Herkimer and Barton streets, on Barton street, between James street and Sherman Avenue, and on Herkimer street, between James street and Queen street, and of the proceeds of such debentures there will be in the hands of the City Treasurer the sum of \$15,000 after the completion of the improvements and pavements mentioned in said by-law No. 846, and the

payment

payment therefor, owing to such improvements and pavements having been completed at less than the estimated cost thereof, and it is expedient that the said sum of \$15,000 be applied towards the cost of the pavements to be constructed, pursuant to this by-law, and to raise the sum of \$200,000 by the issue of debentures of this municipality in the manner and upon the terms and conditions hereinafter specified.

And whereas, the amount of the whole rateable property of this municipality, according to the last revised Assessment Roll, being those prepared for the year 1909, is \$39,277,625, exclusive of the property liable for school taxation only and exempt from general taxation;

And whereas, the amount of the existing debenture debt of the municipality is \$5,344,042.42, exclusive of local improvement debts secured by special rates or assessments, of which debt no part of the principal or interest is in arrear;

And whereas, the sum of \$200,000 is the debt intended to be created by this by-law, and it will require the sum of \$8,080.00 to be raised annually for a period of twenty years, the currency of the debentures to be issued under and by virtue of this by-law, to pay the interest of the said debt, and the sum of \$6,716.35 to be raised annually during the same period for the forming of a sinking fund for the payment of the debt created by this by-law, making in all the sum of \$14,796.35 to be raised annually, as aforesaid;

And whereas, it is necessary that such annual sum of \$14,796.35 shall be raised and levied in each year during the said period of twenty years, by a special rate sufficient therefor, on all the rateable property in this municipality.

Therefore the Council of the Corporation of the City of Hamilton enacts as follows:

1. It shall be lawful for the Mayor of the City of Hamilton and the City Treasurer to raise, by way of loan upon the security of the debentures hereinafter mentioned, from any person or persons, body or bodies corporate, who may be willing to advance the same upon the credit of such debentures, a sum of money not exceeding in the whole the sum of \$200,000, and to cause the same to be paid into the hands of the Treasurer of the said City, for the purposes and with the objects above cited.

2. It shall be lawful for the Corporation of the said City to cause any number of debentures to be made for such sums of money as may be required for the purposes aforesaid, either in currency or sterling money, payable in gold coin, for not less than one hundred dollars currency, or twenty pounds sterling each, and not exceeding in the whole the said sum of \$200,000, and the said debentures shall be sealed with the seal of the said Corporation and be signed by the Mayor and countersigned by the Treasurer of the said City.

3. The said debentures shall bear date the first day of April, 1909, and shall be made payable on the first day of April, 1929, either in currency or sterling, in Canada, Great Britain or elsewhere, and shall have attached to them coupons for the payment of interest, which coupons shall be signed by the said Treasurer.

4. The said debentures shall bear interest at the rate of four per cent. per annum from the date thereof, which interest shall be payable half-yearly on the first days of the months of October and April in each year, at the place where the said debentures are made payable, the first payment to become due on the first day of October, 1910.

5. During the currency of the debentures to be raised under the authority of this by-law, the sum of \$8,080.00 shall be raised annually for the payment of interest on said debentures, and the sum of \$6,716.35 shall be raised annually for the purpose of forming a sinking fund for the payment of the principal
of

of the said loan of \$200,000 in twenty years, making in all the sum of \$14,796.35 to be raised annually, as aforesaid, and a special rate in the dollar upon all the assessed value of all the rateable property in the City of Hamilton over and above all other rates and taxes, and which special rate shall be sufficient to produce in each year the said sum of \$14,796.35 shall be annually levied and collected in each and every year during the currency of the said debentures.

6. The said Mayor and Treasurer may cause the said debentures, or a sufficient amount thereof, to be sold or hypothecated, or may authorize the said debentures, or any portion thereof, to be purchased or taken as and for a temporary or permanent investment of the sinking fund of the City of Hamilton, and the proceeds thereof, after providing for the discount (if any) and the expenses of the negotiation and sale thereof, shall be deposited by the City Treasurer in one of the chartered banks of Canada in the name of this Corporation to the credit of a special account to be called "The Permanent Roads Fund," and shall be applied for the purposes above specified, and for no other purpose, and shall be paid out only on certificate of the City Engineer, the Chairman of the Board of Control and the Chairman of the Works Committee of the City Council, that such payments are necessary and proper for the purposes of this by-law.

7. The votes of the qualified electors of this municipality shall be taken on this by-law on Monday, the third day of January, 1910, commencing at the hour of nine o'clock in the morning and continuing until five o'clock in the afternoon, at the same places and by the same Deputy Returning Officers as are appointed for the municipal elections on that day.

8. On Thursday, the 30th day of December, 1909, the Mayor shall attend at the Council Chamber, at 11 o'clock in the forenoon, to appoint persons to attend at the various polling places, and at the final summing up of the votes by the City Clerk on behalf of the persons interested in and desirous of opposing or promoting the passing of this by-law respectively.

9. The Clerk of the Council of the said municipality shall attend at his office in the City Hall, at eleven o'clock in the forenoon, on Thursday, the sixth day of January, 1910, and sum up the number of votes for and against the by-law.

10. This by-law shall take effect on the first day of March, 1910.

Passed the 10th day of January, A. D. 1910.

S. H. KENT,
City Clerk.

JOHN I. McLAREN,
Mayor.

'SCHEDULE.

Roadways.	Est. Cost.
John Street, King street to Barton street	\$9,910 00
Hughson street, Rebecca street to Gore street	868 00
Locke street, Main street to Herkimer street	26,074 20
James street, Stuart street to Burlington Bay	32,352 70
Wellington street, Main street to Young street	5,998 50
Merrick Street, Macnab street to York street	5,976 00
Park street, York street to Merrick street	989 60
York street, Queen street to Cemetery Gate	33,148 40
King street, Bay street to Garth street	33,199 10
Cannon street, Macnab street to Wellington street (not including Ferguson avenue to Elgin street).....	16,911 60
Bay street, King street to Napier street	3,160 20
Hughson street, Main street to Hunter street	3,336 80

Walnut

Walnut street, King street to Jackson street	2,262 50
Main street, Ferguson avenue to Walnut street	2,518 25
King William street, John street to Mary street	2,367 80
Cannon street, Wellington street to Wentworth street	15,007 80
Wellington street, Barton street to Cannon street.....	5,838 00
Charles street, King street to Main street	3,333 00
Park street, King street to Main street	1,960 00
Better pavement on James street, Barton street to Stuart street	805 00
Enlargement of City Asphalt Plant and loss on sale of debentures	3,982 55
	<hr/>
	\$215,000 00
Less amount on hand from Permanent Paving Fund (By-law No. 846)	15,000 00
	<hr/>
	\$200,000 00

CHAPTER 117.

An Act respecting the Town of Kenora.

Assented to 19th March, 1910.

WHEREAS the Municipal Corporation of the Town of Preamble
Kenora has petitioned praying that an Act may be passed to confirm and legalize a By-Law to guarantee \$100,000 of mortgage debentures of the Tourist Hotel Company, Limited, a copy of which said By-Law is set out as Schedule "A" to this Act; and whereas it has been shown that the Town of Kenora, on the Northerly portion of the Lake of the Woods, is admirably situated and adapted for summer tourist traffic and will derive extensive benefits from the development of such business; and whereas it has been shown that the Town of Kenora is at present in need of adequate hotel accommodation suitable for such class of business, to meet which need several of its citizens, in the year 1907 procured incorporation of the above named Company which proceeded with the erection of the said hotel, upon which has been expended the sum of \$101,454.41, the work being stopped as a result of the general money stringency that followed; and whereas it is estimated and represented that to complete the erection and equip the said hotel, including payment of existing encumbrances against the same, will require the sum of \$100,000, to raise which the said Tourist Hotel Company, Limited, propose to issue and sell mortgage debentures for repayment of said amount with interest in equal annual amounts spread over a period of twenty years and secured by a first mortgage to trustees covering all its property, rights and interests, both real and personal, present and future, and have made application to the said Town of Kenora to guarantee re-payment of the said mortgage debentures; and whereas it has been shown that before the introduction of said By-Law No. 467, by the Council, a largely signed petition of the heaviest rate-payers of the town, representing at least sixty per cent. of the assessable property thereof, was presented to the Council urging upon it to grant the application of the said Hotel Company for the guarantee of such debentures, and that before passing the said by-law it was duly submitted to a vote of the ratepayers entitled to vote on by-laws creating debts

debts, on January 3rd, 1910, at the time of holding the Municipal elections, when 363 voted in favor of said by-law and 204 against the same, 1,015 being the number of persons appearing entitled to vote thereon, and it is desired to confirm and legalize the said By-Law No. 467, and to authorize the Town of Kenora, subject as hereinafter provided, to guarantee the mortgage debentures of the Tourist Hotel Company, Limited; and whereas by an Act passed in the seventh year of His Majesty's reign, Chaptered 71, by-Law No. 394, of the said Town of Kenora, in so far as it provides for a fixed rate of assessment of \$15,000 (except for school purposes), was confirmed and declared to be legal, valid and binding; and whereas it has been shown that the proposed company referred to in said By-Law No. 394, is the Tourist Hotel Company, Limited, above named, and that although it proceeded with the erection of an hotel in full compliance with the said by-law, it failed to complete the same within the time therein stipulated for the reason above mentioned; and whereas the said Municipal Corporation of the Town of Kenora has petitioned praying that an Act may be passed, confirming and declaring legal, valid and binding the said By-Law No. 394, in so far as it provides for a fixed rate of assessment (except for school purposes), notwithstanding the failure to complete such hotel within the time therein stipulated; and whereas, subject as hereinafter provided, it is expedient to grant the prayer of said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law no.
467 con-
firmed—issue
of debentures.

1. By-Law No. 467, set out in Schedule "A" hereto, is confirmed and declared to be legal, valid and binding. Provided that the debentures issued or to be issued by the said the Tourist Hotel Company, Limited, and to be guaranteed by the Town, in pursuance of said By-Law No. 467, may be of such amounts and such denominations as the said the Tourist Hotel Company, Limited, may see fit, but not to exceed in all for principal the said sum of \$100,000.

By-law No.
394 con-
firmed.

2. By-Law No. 394, of the said Municipal Corporation, set out as Schedule "D" to the Act passed in the 7th year of His Majesty's reign, Chaptered 71, in so far as it provides for a fixed assessment of \$15,000 (except for school purposes), is confirmed and declared to be legal, valid and binding, notwithstanding the failure to complete an hotel as therein referred to within the year 1907, as therein stipulated.

SCHEDULE "A."

BY-LAW No. 467.

To Guarantee \$100,000.00 of Mortgage Debentures of the Tourist Hotel Company, Ltd.

Whereas the Town of Kenora is most advantageously situated as a watering place and summer resort for tourists, but has, up to the present, been unable to reap adequate benefits from such situation and advantages, owing to the entire lack of hotel accommodation suitable to tourist traffic;

And whereas it is represented that in the month of March, 1907, the Tourist Hotel Company, Limited, was incorporated by a number of citizens of the Town of Kenora, under "The Ontario Companies Act," for the purpose of erecting and operating in the Town of Kenora an hotel designed and suitable to meet the present demands of such tourist traffic, and in furtherance of such purpose, the said Company acquired a site on the corner of Main and Second Streets and proceeded with the erection of such an hotel, known as "The Tourist Hotel," upon which (including site) has been expended \$101,454.41.

And whereas it is represented by said Company that owing to the recent stringency in the money market, it became impossible to finance the completion and equipment of said hotel, which still stands in its unfinished condition since the spring of 1908, notwithstanding the continued efforts of the Company to borrow or otherwise obtain the necessary funds for completion and equipment.

And whereas it is estimated and represented by said Company that to complete the erection and fully equip said hotel, including paying of existing encumbrances against the same, will require the sum of \$100,000.00.

And whereas the said Company has made an application to the Corporation of the Town of Kenora to guarantee a proposed issue of six per cent. mortgage debentures of said Company to the amount of One hundred thousand dollars, principal and interest payable over a period of twenty years;

And whereas a largely signed petition of the heaviest ratepayers of the Town has been presented to this Council, praying that such application be granted;

And whereas owing to the benefits and advantages to be derived by the Town of Kenora generally from the completion, equipment and operation of the said Tourist Hotel, it is deemed expedient to grant the said application;

Therefore the Municipal Council of the Corporation of the Town of Kenora, in Council assembled, enacts as follows:—

1. That this Corporation guarantee an issue of six (6) per cent. \$100.00 debentures, to the amount of One hundred thousand dollars (\$100,000.00), to be issued by the Tourist Hotel Company, Limited, and secured by a Trust Mortgage, covering all its property, rights and interests, both real and personal, present and future, for the purpose of completing the erection and equipment of the Tourist Hotel in the Town of Kenora, such guarantee to be endorsed and printed on each of the said debentures, and shall be signed by the Mayor and Treasurer under the corporate seal, in the following form:—

"This debenture is guaranteed by the Corporation of the Town of Kenora.
 "Dated the day of 19..
 "..... Mayor.
 " (Seal.) Treasurer."
 Provided

Provided that no such guarantee shall be given unless and until satisfactory provision shall have been made by which during the currency of such debentures, the Municipal Council of the Town of Kenora shall have the right, from time to time, to appoint by resolution, one of its members as a director of said Company, who, without other qualifications, shall have all the rights, powers and privileges of any other director of said Company, and who shall from time to time, be elected by said Company as one of its directors. But it shall not be incumbent upon the purchaser or purchasers of such debentures to enquire as to the fulfilment of this proviso.

2. That the votes of the qualified electors of the said Town of Kenora will be taken on this By-Law by the Deputy Returning Officers hereinafter named, on Monday, the third day of January, one thousand nine hundred and ten, commencing at nine o'clock in the morning and continuing until five o'clock in the afternoon, at the undermentioned places:

Centre Ward, Polling Subdivision No. 1, at the Town Hall in the Town of Kenora, by Robert Nairn, Deputy Returning Officer.

Polling Subdivision No. 2, at Cronlund's Hall, Oscar Cronlund, Deputy Returning Officer.

North Ward, Polling Subdivision No. 1, at the Court House in the Town of Kenora, by William R. Gerrie, Deputy Returning Officer.

Polling Subdivision No. 2, at O. Partington's residence, Park Street, Oswald Partington, Deputy Returning Officer.

South Ward, Polling Subdivision No. 1, at J. T. Gunnis' residence, No. ..., Second Street South, by James Sherman, Deputy Returning Officer.

Polling Subdivision No. 2, at the Swedish Temperance Hall, 4th Avenue South, by R. B. Donkin, Deputy Returning Officer.

West Ward, at Torrance's Hall, Norman, in the Town of Kenora, by John Kay, Deputy Returning Officer.

3. That on the 31st day of December, A.D. 1909, at his office in the Town Hall in the Town of Kenora, at the hour of ten o'clock in the forenoon, the Mayor shall appoint in writing, signed by himself, two persons to attend at the final summing up of the votes by the clerk and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the passing of this By-Law, and a like number on behalf of the persons interested in and desirous of opposing the passing of this By-Law.

4. That the Clerk of the said Municipal Council of the Town of Kenora shall attend at the Council Chamber in the Town Hall in the said Town of Kenora, at the hour of twelve o'clock, noon, on the fourth day of January, 1910, to sum up the number of votes given for and against this By-Law.

5. This By-Law is subject to Legislative confirmation and shall come into force from and after the confirmation of same by the Legislature of the Province of Ontario.

Council Chamber, Kenora, January 12th, 1910.

(Seal of Kenora Corporation.)

H. RIDEOUT,

Mayor.

M. McCULLOCH,

Clerk.

CHAPTER 118.

An Act respecting the City of London.

Assented to 19th March, 1910.

WHEREAS the Corporation of the City of London has by Preamble.
Petition represented that the Council of the said Corporation on the Twenty-first day of June, A.D. 1909, passed a By-law, Numbered 3372, to raise the sum of \$7,000 to extend the London Waterworks, and for the issue of debentures therefor; that the said Council did on the Third day of August, A.D. 1909, pass a By-law, Numbered 3407, to provide for the issue of \$123,700 debentures for waterworks purposes; that the said Council did on the Twentieth day of December, A.D. 1909, pass certain By-laws, Numbered 3461, 3462, 3463, and 3464, to levy the cost of the construction of certain local improvements therein mentioned, and for the issue of debentures to pay for the cost of the same; that the said Council did on the Twentieth day of December, A.D. 1909, pass a By-law, Numbered 3465, to consolidate the several issues of debentures mentioned in said By-laws, Numbered 3461, 3462, 3463, and 3464; and whereas the said Corporation has further represented that the said By-laws should be confirmed, in order that the debentures issued thereunder may be more readily and profitably disposed of; that the said Council did on the Sixth day of December, A.D. 1909, pass a By-law, Numbered 3450, relating to the Water Commissioners for the City of London, providing and directing that the Water Commissioners for the City of London shall have the whole management and control of, and supervision over, the construction, maintenance and operation of the Electric Light Plant and machinery of the said Corporation, for the distribution of electric light and power in the said City, under the provisions of Section 3 of *The City of London Act, 1909*, and that it is expedient that the said last mentioned By-law should be confirmed, and declared to be legal, valid and binding; and whereas the said Council has further represented that it is expedient that the Water Commissioners for the City of London

should, in addition to the powers conferred upon them by the said By-law, Numbered 3450, have also the whole management and control of, and supervision over, the construction and erection of the said Electric Light Plant and machinery, and the operation of the same; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-laws set
out in
Schedule "A"
confirmed.

1. The By-laws of the Corporation of the City of London, specified in Schedule "A" hereto, and all debentures issued or to be issued thereunder, and all assessments made, or to be made for the payment thereof, are confirmed and declared to be legal, valid and binding.

By-law No.
3450 con-
firmed.

2. By-law Numbered 3450 of the Corporation of the City of London, specified in Schedule "B" hereto, is confirmed, and declared to be legal, valid and binding.

Water Com-
missioners to
manage Elec-
tric Light
Plant.

3. The Water Commissioners for the City of London shall have, in addition to the powers conferred upon them by the said By-law Numbered 3450, and *The City of London Act, 1909*, the whole management, control of and supervision over the construction and erection of the said Electric Light Plant and machinery for the distribution of electric light and power in the said City, and the operation of the same.

Short title.

4. This Act may be known and cited as *The City of London Act, 1910*.

SCHEDULE "A."

List of By-laws providing for the issue of debentures by the Council of the City of London.

No. of By-law.	Date of passing of By-law.	Nature of work under By-law.	Amount of debt created.	Amount to be borne by city.	Amount by ratepayers.	Time.	Rate.
3372	June 21st, 1909	To raise \$7,000 to extend the London Waterworks.	\$7,000 00	\$7,000 00	.....	30 years	4%
3407	August 3rd, 1909	To provide for the issue of debentures for Waterworks purposes.	123,700 00	123,700 00	.....	30 years	4%
3461	December 20th, 1909.	Local improvement debentures to defray the cost of certain cement sidewalks, kerbs and gutters constructed in 1909.	29,850 65	17,674 57	12,176 08	10 years	4½%
3462	December 20th, 1909.	Local improvement debentures to defray the cost of certain tile sewers constructed in 1909.	14,124 03	3,628 86	10,495 17	10 years	4½%
3463	December 20th, 1909.	Local improvement debentures to defray the cost of certain pavements constructed in 1909.	35,587 01	11,188 49	24,398 52	10 years	4½%
3464	December 20th, 1909.	Local improvement debentures to defray the cost of certain trunk sewers constructed in 1909.	16,095 81	.....	16,095 81	10 years	4½%
3465	December 20th, 1909.	To consolidate the several issues of debentures referred to in By-laws Numbered 3461, 3462, 3463 and 3464, and to provide for raising by debentures the City's share of the cost of the improvements in the said By-laws mentioned, which is to be raised by special rates.	95,657 50	32,491 92	63,165 58	10 years	4½%

SCHEDULE "B."

By-law No. 3450 relating to the Water Commissioners for the City of London, passed on the Sixth day of December, A.D. 1909.

CHAPTER 119.

An Act to Confirm By-Law No. 818 of the Town
of Napanee.*Assented to 19th March, 1910.*

Preamble.

WHEREAS the Municipal Corporation of the Town of Napanee has by Petition set forth that by By-law No. 419, the said Corporation consented to the incorporation of the Napanee Water-Works Company; that by an agreement bearing date the 19th day of August, 1889, an agreement was entered into between the said Municipal Corporation and the said Company under which the Company has since carried on the business of supplying water to the Town of Napanee and the inhabitants thereof for fire protection, and for manufacturing, sanitary and other purposes; that the period of ten years for which the said contract was entered into expired on or about the first day of August, 1900; that by mutual agreement the Company has continued to supply water for the said purposes in the said Town to the present time without any new agreement in writing having been entered into; that the said Municipal Corporation has entered into a contract with the said Company for the supplying of water for a further period of ten years; that the said contract has been duly submitted to the ratepayers of the said Town in pursuance of the Act passed in the ninth year of His Majesty's reign, Chaptered 75, and has been approved of by the said ratepayers, 235 ratepayers voting in favour of the approval of the said contract and 118 voting against the same, out of a total of 589 ratepayers qualified to vote thereon; and whereas the said Municipal Corporation has prayed that an Act may be passed to ratify and confirm the said By-law and Agreement, and whereas it is expedient to grant the prayer of the said petition:

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law No. 818
of town of
Napanee

1. Subject to the provisions of section 2 By-law No. 818 of the Town of Napanee and the agreement therein referred to, set out respectively as Schedules "A" and "B" to this Act

Act, are confirmed and declared legal, valid and binding upon the said Corporation and the ratepayers thereof and upon the Napanee Water-Works Company.

2. Notwithstanding anything contained in the said By-law, the real estate, buildings and other property of the said Company shall for school purposes be assessed and liable to taxation as though the said By-law had not been passed.

Assessment for
school
purposes.

SCHEDULE "A."

BY-LAW No. 818.

OF THE CORPORATION OF THE TOWN OF NAPANEE.

A By-law to authorize the Corporation of the Town of Napanee to enter into a contract with the Napanee Water Works Company.

Whereas the Council of the Corporation of the Municipality of the Town of Napanee deem it in the interests of the said Municipality that an agreement be entered into between the said Municipal Corporation and the Napanee Water Works Company, in the terms set forth in Schedule "B" to this By-law, and;

Whereas to that end that the assent of the electors of the Town of Napanee should be first had and obtained.

Now therefore the Corporation of the Municipality of the Town of Napanee enacts as follows:

1. That the Mayor and Clerk of said Municipality are hereby authorized to attach the Corporate Seal of the Corporation of the Town of Napanee to the Indenture between the Corporation and the said Napanee Water Works Company hereunto annexed as Schedule "B" to this By-law, or to duplicate copies thereof in all respects in words and figures identical with and similar to said Indenture as Schedule "B" hereto, with all necessary and proper dates inserted therein and to enter into, make, sign, execute and deliver the same and such Indenture is hereby incorporated with and shall form part of this By-law.

2. That this By-law shall go into effect on the day of the date of the final passing thereof.

3. That the votes of the electors of the said Municipality of the Town of Napanee entitled to vote on this By-law shall be taken on this By-law on Monday, the third day of January, A.D. 1910, commencing at the hour of nine o'clock in the forenoon and continuing till five o'clock in the afternoon of the same day by the following Deputy Returning Officers and Poll Clerks and at the following places; that is to say:

WEST WARD, No. 1.

Polling Place, Frank Kinkley's Residence; Deputy Returning Officer, W. C. Bowen; Poll Clerk, N. Mathewson.

WEST WARD, No. 2.

Polling Place, Public Library Building; Deputy Returning Officer, Frank Dean; Poll Clerk, Clarence Ellison.

CENTRE WARD, No. 1.

Polling Place, Town Hall; Deputy Returning Officer, G. T. Walters; Poll Clerk, J. M. Graham.

Polling

CENTRE WARD, No. 2.

Polling Place, Mrs. Cronk's Residence; Deputy Returning Officer.
P. J. Gleeson; Poll Clerk, I. J. Lockwood.

EAST WARD.

Polling Place, W. J. Normile's Office; Deputy Returning Officer.
H. V. Fralick; Poll Clerk, Harry Fralick.

4. On Friday, the thirty-first day of December, A.D., 1909, the Mayor of the said Town of Napanee shall attend at the Council Chamber in the Town Hall of the said Town of Napanee at the hour of 12 o'clock, noon, for the appointment of persons to attend at the various polling places aforesaid and at the final summing up of the votes by the Clerk respectively, on behalf of the persons interested in and promoting or opposing the passing of this By-law respectively.

5. The Clerk of the Council of the said Town of Napanee shall attend at his office at ten o'clock in the forenoon of Tuesday, the fourth day of January, A.D., 1910, to sum up the votes given for and against the By-law.

By-law read a first time this 12th day of November, 1909.

Sgd. W. A. GRANGE,
Clerk.

By-law read a second time this 15th day of November, 1909.

Sgd. W. A. GRANGE,
Clerk.

By-law read a third time, signed and sealed this 10th day of January, A.D., 1910.

Sgd. T. W. SIMPSON,
Mayor.
Sgd. W. A. GRANGE,
Clerk.

SCHEDULE "B."

WATERWORKS AGREEMENT.

This agreement made in duplicate the 10th day of January, A.D., 1910.
BETWEEN—

The Napanee Waterworks Company, hereinafter called the "Contractors," of the first part.

—and—

The Corporation of the Town of Napanee, hereinafter called the "Corporation," of the second part.

Whereas, the said Contractors are a duly incorporated Company, incorporated under the provisions of Chapter 164 of the Revised Statutes of Ontario, 1887, and

Whereas By-law No. 419, of the Corporation of the Town of Napanee was duly passed under and pursuant to section 4 of the said Statute enabling the said Company to carry on their business in the Town of Napanee, and

Whereas the Contractors have been carrying on business in the Town of Napanee since the fifth day of August, 1889; and

Whereas the said Contractors have constructed in said Town of Napanee, an efficient waterworks system for supplying water
for

for fire protection and for manufacturing, sanitary and other purposes within the limits of the said Town of Napanee; and

Whereas the construction and operation of the said waterworks system has been of material benefit to the said Corporation and its citizens, owing to the advantageous terms of the contract then entered into; and

Whereas a contract was originally made between Mark D. Hanover and Frank A. Hinds and the said Corporation by Indenture, bearing date the 19th day of August, A.D., 1889; and

Whereas said contract was assigned by the said Mark D. Hanover and Frank A. Hinds to the said Contractors, the Napanee Waterworks Company by Indenture, bearing date the 17th day of October, A.D., 1889; and

Whereas the ten year period of the said contract ended on or about the first day of August, A.D., 1900; and

Whereas the said Contractors and the said Corporation since the expiration of said period as aforesaid have deemed it expedient to continue, and have continued, to treat the said contract as a subsisting contract; and

Whereas the said Corporation and the ratepayers of the said Town of Napanee are desirous of entering into a contract for the supply of water in the terms and conditions hereinafter set forth, for a further period of ten years from the date when this contract shall come into force:

Now, therefore, this Indenture witnesseth, that the said parties hereto do hereby covenant and agree each with the other in manner following, that is to say:

1. All covenants and agreements herein contained shall be construed as made for and on behalf of the parties hereto and their respective successors and assigns.

2. The Contractors shall and will maintain and operate in a good, thorough and efficient manner, a system of waterworks in and for the said Town of Napanee for the purpose of supplying and they will thereby at all times and under all circumstances promptly and amply supply the said Corporation and the people thereof with water for fire protection and for manufacturing, sanitary and other purposes within the limits of the said Town of Napanee as herein provided, subject to the conditions and stipulations hereinafter contained.

3. That for the purpose aforesaid the Contractors shall have the right and are herein authorized to enter upon, dig up and use any public street, ways or grounds, the property of the Corporation and to cross any streams within the limits of the said Corporation as may be necessary for the purpose of laying mains, pipes, hydrants, gates and other necessary works and appliances in performing their obligations under this agreement and for the successful construction, working and operating of the said waterworks and for the repair, extension and reconstruction thereof as hereinafter mentioned, and the work shall be done and all land and material shall be found and provided at the cost and charges of the said Contractors.

4. The Contractors agree that during the progress of the work and during the continuance of this contract or any renewal thereof, they will not unnecessarily obstruct any street, alley, avenue or public ground, and they will properly repair and make good any gas or sewer pipes or drains previously laid that may be disturbed or injured by them in laying their pipes, conduits and works, and will reset any walks or pavements and will repair any streets, roads, alleys and grounds that may be disturbed in constructing

structing, extending and repairing the works, and will promptly leave all these in as good repair and condition as they were in before the work was commenced.

5. The Contractors also agree to suitably and efficiently guard and protect all excavations so as to prevent injury to persons and to public or private property and shall and will indemnify and save harmless the Corporation of and from all loss or damage by reason of their doing the said works, extensions and repairs and by reason of any negligence of the Contractors or their employees in doing the same.

6. The extent of mains required under this agreement to be maintained shall be at least twelve thousand four hundred feet and the extensions as hereinafter provided for on which shall be placed for the use of the said Corporation for fire protection thirty-one (original) hydrants and such additional hydrants as hereinafter provided for and for which the Corporation shall pay the rent hereinafter mentioned. The said original hydrants, except as hereinafter provided, shall not be more than four hundred feet apart, that is to say: One hydrant to every four hundred feet of main, and of the said twelve thousand four hundred feet of mains, three thousand feet thereof shall be of ten inch pipe, three thousand five hundred feet of eight inch pipe, and five thousand nine hundred feet of six inch pipe.

7. The Corporation shall indicate before any extensions of the said waterworks system is commenced the streets and the places on the same within the said Town limits in which the pipes are to be laid and the places where any additional hydrants as hereinafter provided for or that may hereafter be required, are to be situate.

8. The water supply in the discretion of the Contractors, may be taken from the Napanee River or from wells, springs or other sources, provided however, that the said water supplied shall at the outset and at all times thereafter be ample in quantity.

9. No main to be laid at any time shall be less than six inches in diameter and the pipes connecting with the hydrants shall not be less than four inches in diameter.

10. All pipes used in the said works shall be of the best quality of iron pipe cast vertically and before being used shall be tested to a hydrostatic pressure of 300 pounds to the square inch and shall be coated inside and outside with coal tar and shall be laid with well leaded joints in trenches of a sufficient depth in each and every case to prevent freezing and the Contractors shall not fail in these respects.

11. The hydrants shall be first-class double delivery, non-freezing, fire hydrants of the best and most approved pattern and make and shall be properly set in connection with the water mains at such points along the line of such mains as are or may be indicated on extensions by the said Corporation, (subject, however, to the provisions of section 6 of this contract), and shall be well and properly drained and completely protected from frost.

12. Valves and gates shall be placed at suitable points in the piping system to allow and enable the water to be shut off in the various parts, without disturbing the working of the remaining sections.

13. The pumping machinery shall comprise two pairs of separate and distinct pumps operated by steam or water power and of a capacity each of one million gallons per day. If the said pumps should be operated by water power the Contractors shall also furnish an auxiliary steam power to be used in the event of the water power failing or not being sufficient to properly work

the said pumps, and the said Contractors hereby agree to furnish a supply of water at all times sufficient for the proper and efficient working of the said pumps.

14. The said mains and pipes shall be subject to a test pressure of one hundred pounds to the square inch and it is agreed that they shall bear this test at any time during the continuance of this contract or any renewals thereof.

15. The Contractors agree that when and while the said works or hydrants are being used in case of fire and at all times in case of fire there shall continuously be a sufficient pressure on the said mains to support, throw and maintain through two hundred and fifty (250) feet of two and one half or three inch fire hose and a one and a quarter inch nozzle, the fire streams hereinafter mentioned, that is to say: On the line of the ten inch mains from four separate hydrants at one and the same time, four fire streams each of which shall not be less than eighty-five (85) feet high or two fire streams from each of two separate hydrants at one and the same time, each of which streams shall not be less than eighty-five (85) feet high; on the line of the eight inch mains from three separate hydrants at one and the same time, three fire streams, each of which shall not be less than eighty-five (85) feet high, or from two hydrants at one and the same time three fire streams each of which shall not be less than eighty-five (85) feet high; on the line of the six inch mains from two separate hydrants at one and the same time, two fire streams each of which shall not be less than eighty-five (85) feet high, or from any one hydrant two fire streams, each of which shall not be less than eighty-five (85) feet high; and, further, that the said pressure in case of fire shall continuously be sufficient to support, throw and maintain through five hundred (500) feet of fire hose of the size aforesaid and a one inch nozzle, the fire streams hereinafter mentioned, viz.: On the line of the ten inch mains two fire streams from each of the two separate hydrants at one and the same time, each of which streams shall not be less than sixty-five (65) feet high; on the line of the eight inch mains, from two hydrants at one and the same time, three fire streams each of which shall not be less than sixty-five (65) feet high; on the line of the six inch mains, from any one hydrant, two fire streams each of which shall not be less than sixty-five (65) feet high; and further that the said pressure in case of fire shall continuously be sufficient to support, throw and maintain through one thousand feet (1,000) of fire hose of the size aforesaid and a one inch nozzle, the fire streams hereinafter mentioned, viz.: On the line of the ten inch mains, two fire streams from each of two separate hydrants at one and the same time each of which streams shall not be less than fifty (50) feet high; on the line of the eight inch mains, from two hydrants at one and the same time, three fire streams each of which shall not be less than fifty (50) feet high; on the line of the six inch mains, from any one hydrant two fire streams each of which shall not be less than fifty (50) feet high, provided always that in each and every of the said cases not more than one set of hydrants are in use at the one time, and that for each and every time the said works from any cause whatever fail in case of fire to throw and continuously maintain from any of the said hydrants such stream or streams of water per set and use per single set as hereinbefore described, the said Contractors agree to pay to the said Corporation for each and every one of the said hydrants from which the said stream or streams of water fails to be thrown and maintained as aforesaid, the sum of fifty dollars (\$50) as liquidated damages, which sum is hereby declared to be liquidated damages and not a penalty.

16. The Contractors shall keep placed at the pump house, telephone connection with the Town Exchange and with the Fire Station, which said connection shall be kept in order at all times so that convenient, prompt and immediate communication can be had in case of fire.

17. In the repair or extension of the works, home labourers are to be given the preference.

18. The Corporation shall have the right from time to time to cause the Contractors to extend their mains within the said limits beyond the said twelve thousand four hundred feet and to place hydrants thereon, provided, however, that on such extension or extensions, when made as the Corporation directs, they (the Corporation), assume all responsibility as to the efficiency of such extension for fire purposes unless the same are made as the Contractors shall require. The Contractors shall only be called upon to do the work at the proper season of the year and on sixty days' notice in writing, which said notice shall specify what is required, including the number of hydrants to be put in such extensions. The said hydrants however, shall be placed not more than six hundred (600) feet apart and the pipes to be used in such extensions shall be not less than six inches in diameter, nor more than eight inches in diameter, unless otherwise agreed upon before said extensions are made by the parties hereto, but should the Contractors themselves see fit, they shall be at liberty to extend the mains for manufacturing or domestic purposes, but in doing so they shall be responsible for the efficiency of the whole system.

19. In the event of any extension of the said works as provided in the preceding paragraph, or as herein provided for, such extension and the additional works thereof and the hydrants constructed shall be subject to all the terms and conditions named in this contract and the same price per hydrant shall be paid by the Corporation for the use of such additional hydrants as is hereinafter in paragraph No. 23 of this contract agreed upon for the thirty-one hydrants hereinbefore mentioned in case such additional hydrants do not exceed ten, but in case and when such additional hydrants shall exceed ten, then the price per hydrant shall be such sum under fifty dollars (\$50.00) per annum as may be agreed upon between the parties, before the work of extending the said mains is begun.

20. The Contractors shall furnish the fire department of the said Town with keys for the said hydrants and during all fires or parades of the said fire department, the said hydrants shall be under the direction and control of the chief of the said fire department or his assistants or of the Chairman of the Fire, Water and Light Committee of the Council of said Town, or of such person or persons as the Corporation or any member of the Town Council may authorize and appoint for that purpose, and the fire department shall have the right at any time to attach hose to any of the said hydrants for the use of the fire engine or to test the efficiency of the said works, but any damage done to any of the said hydrants while the same are under the control of any of the persons above mentioned shall be made good by the said Corporation. In all other respects the hydrants shall be under the control of the Contractors.

21. The hydrants are to be used in a proper and reasonable manner by the Corporation, and the Corporation agrees to pass such reasonable by-laws and regulations as will protect the hydrants and other property of the Contractors from malicious interference by evil disposed persons.

22. The Contractors hereby agree with the Corporation that they will during the whole time this contract is in force for the consideration hereinafter named furnish water for the use of the Town Hall building, the Fire Department building, the Public Library building, and any other public building owned by the Corporation during the time of this agreement or any renewal thereof is in force. Also for all school buildings under the control of the Board of Education situate on the line of mains; also for the Harvey Warner Park and for a public fountain with self closing faucets

on the market square, at which horses and cattle may drink, also all necessary water for street sprinkling and for flushing sewers, and the Corporation shall maintain and control all standpipes for street sprinkling purposes, and only three new standpipes shall be erected and installed at the cost and charge of the Contractors, and shall be installed by the Contractors when required so to do in writing by the Corporation, and any further standpipes shall be erected and installed at the expense of the Corporation. The said Corporation in consideration for the water so contracted to be furnished as set forth in this paragraph further agrees to exempt said Contractors from any and all taxes, levies, rates and assessments, save and except school taxes, for a period of ten years from the date when this contract shall come into force.

23. The Contractors further agree with the Corporation to furnish water for the use of the Napanee Canning Company, Limited, for such period as the Corporation has agreed with the said Napanee Canning Company to furnish them with water, for the sum of seventy-five dollars (\$75.00) per annum, said sum to be payable in two equal semi-annual instalments on the dates hereinafter provided for the payment of hydrant rental.

24. The Corporation covenants and agrees with the Contractors that in consideration of the performance of the provisions of this contract and agreement, they will pay or cause to be paid to the said Contractors the sum of fifty dollars (\$50) per annum for each of the said thirty-one original hydrants, and the sum of seven dollars and fifty cents (\$7.50) each for the two middle block hydrants now on Dundas street, as provided by By-law No. 432 of the Corporation, the said payments to be made semi-annually in each year while the contract continues, on the first days of May and November.

25. It is also agreed that the prices for the supply of water to consumers other than those hereinbefore mentioned shall not exceed the prices mentioned in the schedule hereto annexed marked "C."

26. It is agreed that unless terminated as in the thirtieth paragraph hereof provided, this contract for the supply of water for the use of the said Corporation for fire purposes and the other public uses hereinbefore specified, except the supply of water to the Napanee Canning Company, Limited, shall remain in force for the period of ten years from the day of the date of the final passing of the By-law confirming this agreement, with the option to the Corporation of renewing the said agreement from time to time for any period authorized by the statutes then in force and under and subject to such terms and conditions as may be agreed upon and as may be consistent with those statutes, in which event all the terms, conditions and covenants herein contained shall continue and remain in force for the said period or periods for which the said agreement is renewed, unless or until terminated as aforesaid.

27. Anything herein contained shall not prevent the Corporation putting down in the streets sewers or drains for the use of the public, but in doing so, no damage shall be done to the pipes or works of the Contractors, and if the same are damaged by the Corporation in putting down such sewers or drains, all such damage will be made good to the Contractors by the Corporation.

28. It is further understood and agreed that the Contractors may use and make such connections with the said mains as may be necessary for the supply of water for the Grand Trunk Railway Company without interruption by the said Corporation, and the said Corporation agrees to allow the said Contractors to lay down a special main or mains independently of the service for the Corporation for the supply of water for the said railway company, on such street or streets as may be the most direct way from the pumping station to the premises of the said railway Company, the said

contractors

Contractors agreeing not to do any unnecessary damage to any street or streets in which the said special main or mains shall be placed, but the privileges granted by this paragraph are subject to the terms and conditions contained in clauses four (4) and five (5) of this contract, and are to be enjoyed while this contract continues in force and no longer and the right of the said Contractors to use any main or mains which may have been or may hereafter be laid down for the supply of the said Railway Company with water, shall terminate upon the expiration of this contract or any renewal thereof.

29. And it is also understood and agreed that the Contractors shall have the right at all times to enter upon and dig up any part of the said street or streets for the purpose of making any necessary repairs to the said main or mains or any of them subject to the terms and conditions contained in said clauses four (4) and five (5).

30. It is further agreed that if the said Contractors shall at any time while this contract or any renewal thereof is in force supply or undertake or pretend to supply the people of the said Corporation with water for drinking or cooking purposes such water shall be good, pure and wholesome and shall at all times be subject to and shall be such as shall be approved of by the Board of Health for the Province of Ontario or the persons or officers for the time being performing the duties now performed by the said Board, and it is further agreed that if at any time the quality of said water when supplied for the said purposes fails to be such as aforesaid, the Corporation may give the Contractors notice in writing setting forth the cause of complaint, and unless the Contractors within six weeks from the service upon them or on their Manager or Superintendent, cause such water to be of quality herein required, the Contractors shall cease to have any right to twenty-five per centum of the rental or compensation in this agreement mentioned until such water is made to the satisfaction of the Provincial Board of Health or the officers or body then exercising the powers now exercised by the said Board, and during the period which may elapse between the expiration of the said notice and the date when the said water shall be provided of the quality required as aforesaid, the said rental for hydrants shall be reduced to the extent of twenty-five per centum on the amount hereinbefore agreed upon, provided however, that the Contractors shall not be liable to the said reduction of twenty-five per centum if at any time within the said period of six weeks after the receipt of the said notice, they shall leave at the house of each consumer of the said water a notice either written or printed, stating that the said water is not fit or suitable for drinking or cooking purposes. Such notice shall be left at the house where the water is supplied and shall have the name of the Contractors either written or printed at the foot or end thereof. In every case of dispute, the certificate of the said Provincial Board of Health, or the person or body exercising the powers now exercised by them as to the quality of the water shall be final for the purpose of this agreement.

31. It is also agreed that the Corporation shall have the right at any time while this contract is in force or at any time during any further or other renewal thereof, to take over and assume the said mains, hydrants, pumps, water power and steam power, with all appliances used in connection therewith at a valuation and in the event of the parties not being able to agree upon a valuation, then such valuation shall be determined by arbitration as provided for by the Consolidated Municipal Act 1903 and amendments thereto or under any existing statute thereunto enabling and that upon said Corporation taking over the said works as aforesaid, this contract shall terminate.

32. It is further understood and agreed that the pressure shall at all times be maintained on the said mains at not less than forty pounds to the square inch, but in case of fire, the pressure shall always be such as is required by section fifteen (15) of this con-

tract, and the Contractors shall keep a man continuously in attendance at the pump house.

33. It is further agreed that the Contractors shall if the Corporation should so require, place additional hydrants on such points on the line of mains between the hydrants herein contracted for as the Corporation may indicate, such additional hydrants to be subject to all the terms and conditions contained in this contract excepting that the rent for the same shall be only seven dollars and fifty cents (\$7.50) per annum for each hydrant.

34. The said Contractors further agree that in laying their mains at any time, they will not break ground in front of any block on any street until pipes and all the material therefor are ready on such ground, and that they will then complete the work in front of such block forthwith, so as not to unnecessarily obstruct any such street.

35. And the said Contractors agree that in making the ditches in which to place the said pipes, they will not make such ditches of any greater width than the Corporation may deem necessary for the purpose for which they are required, and the mains shall not be less than seventeen feet from the property line of the highway.

36. The Contractors agree to extend their present mains from the "dead end" on Centre street to Bridge street, and thence along said Bridge street, westerly to Robert street, and to replace the hydrant now at the said "dead end" by a hydrant at the corner of Bridge and Centre streets, and to place a new hydrant at the corner of Bridge and Robert streets, all of the said work called for in this clause to be completed on or before the first day of June, A.D. 1910.

37. The Contractors further agree on or before the first day of July, A.D. 1910, to construct an extension of the present main to the south-east corner of Robinson and Graham streets, and to put in a hydrant at said corner, and the Corporation shall not be required to put in any further hydrant in the extension provided for in this paragraph.

38. The Contractors further agree to extend the mains to any part of the Corporation limits upon receiving from the Corporation a request therefor and satisfactory assurances that the gross annual revenue derived from said extension shall equal eight (8) per centum of the cost of said extension, but in case the gross annual rental derived from said extension shall not amount to eight per centum, but shall equal five (5) per centum of the cost of said extension, the Contractors agree to put in said extension upon the condition that for every six hundred feet thereof a hydrant shall be placed by the said Contractor, which said additional hydrant or hydrants shall be paid for in the same manner and at the same annual hydrant rental as is provided for in clause twenty-three (23) of this agreement, for the original thirty-one hydrants.

39. The Contractors further agree that they will at their own expense and upon reasonable notice tap the main, furnish the necessary pipe and fixtures complete, including stop cock and gate box and make the necessary connections from the main to the curb line for any new consumer on either side of any street along the line of any main, but all excavating and back filling therefor shall be done by the said consumer.

40. The said Corporation agrees to remit the taxes of the Contractors levied against them by the Corporation during the years 1908 and 1909, except the school tax levied for the year 1908, which said school tax amounts to the sum of one hundred and sixty dollars, and the said Contractors agree to remit the account of five hundred and forty dollars (\$540) rendered against said Corporation for extra water for the year 1908, and to remit any further

account

account the Contractors may have against the Corporation for extra water previous to the date when this contract shall come into force.

41. The contract dated November 9th, A.D. 1892, heretofore entered into between the parties hereto is hereby abrogated and is hereby declared to be void and of no effect, and neither of the parties hereto shall have or claim any rights or make any demands upon the other thereunder.

42. Notwithstanding any provision of this contract for the payment of money upon default by the Contractors in carrying out the terms of this agreement, it is agreed by and between the parties hereto that all disputes which may arise between them touching the construction of this agreement or the fulfilment of its terms and the recovery of damages for the non-compliance with the same shall be determined by the Ontario Railway and Municipal Board, and the parties hereto shall abide by, obey and carry out the decision and directions of the said Board without appeal therefrom, and neither party shall take any action or other proceeding against the other in matters within the jurisdiction of said Board before any Court or Tribunal other than the said Board.

43. The Corporation and the Contractors agree that if this agreement is approved by the electors, they will join in an application to the Legislature at its next session for a special Act ratifying and confirming this agreement and the by-law authorizing its execution by the said Corporation.

44. This agreement is subject to the assent of the ratepayers of the Town of Napanee being obtained thereto in the manner provided for by the Consolidated Municipal Act, 1903, and amendments thereto.

In witness whereof the Corporate Seals of the parties hereto have been hereunto affixed and the President of the Contractors has hereunto set his hand, and the Mayor and the Clerk of the Corporation have hereunto set their hands.

In the Presence of
(Sgd.) S. M. SAVAGE.

(Sgd.) EDWARD A. BOND,
President of the Napanee Water Works Co.

{ Seal of the
Napanee
Waterworks
Company. }

Sgd. T. W. SIMPSON,
Mayor.
Sgd. W. A. GRANGE,
Clerk.

{ Seal
of
Corporation. }

SCHEDULE "C."

REFERRED TO IN THE AGREEMENT HEREUNTO ANNEXED.

The charges for the supply of water to consumers shall not exceed the following prices per annum upon which a discount of twelve and a half per cent. shall be allowed for prompt payment.

FOR PRIVATE DWELLINGS.

Not exceeding five rooms, 1 faucet	\$4 60
Over five rooms, 1 faucet	6 90
Each wash basin	1 15
Bath tubs	3 45
Each additional bath tub	2 30
Urinals	2 30
Water closets, self-closing, in residence or private office....	4 60
Stationary wash tubs	3 45
Sprinklers, street or lawn, from 45 to 66 feet frontage to be used not more than ten hours per day	6 90
Each additional front foot	0 09
From 30 to 45 feet frontage, 12½c. per foot.	

PRIVATE STABLES.

1 horse, including washing wagon, 1 faucet	\$4 60
Each additional horse	2 30
Cows and oxen, each	2 30

PLACES OF BUSINESS.

Public Offices and Stores	\$5 75 to \$11 50
Hotels, Restaurants, Saloons, Boarding Houses, Stables, Livery, Factories, according to amount of water used.	
Bakeries, using not to exceed 3 barrels of flour per diem..	13 80
Each additional barrel of Flour	4 60
Banks, including one wash basin	11 50
Book Bindery	\$11 50 to 17 25
Blacksmith Shops, 1 fire	4 60
Each additional fire	2 30
Barber Shop, 1 chair	5 75
Each additional chair	2 30
Butcher Stalls and Shops	\$5 75 to 23 00
Bath Houses, public, per tub	5 75 to 11 50
Billiard Saloons, 1 table	5 75
Each additional table	2 30
Cigar Manufacturies, employing not exceeding ten hands....	11 50
Each additional hand	1 15
Candy Manufacturies	\$5 75 to 28 75
Dyeing and Scowring Shops	11 50 to 34 50
Fountains, flowing, not exceeding six hours per day during season—	
3-16 orifice	17 25
$\frac{1}{4}$ orifice	34 50
5-16 orifice	57 50
Laundries	\$11 50 to 57 50
Printing Office, not including steam engine	\$9 20 to 34 50
Photograph Galleries	11.50 to 23 00
Urinals in Offices, Stores and Shops, each	3 45
Water Closets in Offices, Stores and Shops, each	5 75

METER RATES.

A discount of $12\frac{1}{2}$ per cent. to be allowed for prompt payment.
 100 to 500 gallons per day, $57\frac{1}{2}$ cents per 1000 gallons.
 500 to 1000 gallons per day, $28\frac{3}{4}$ cents per 1000 gallons.
 1000 to 2000 gallons per day, 23 cents per 1000 gallons.
 2000 to 10000 gallons per day, $17\frac{1}{4}$ cents per 1000 gallons.
 10000 to 20000 gallons per day, $13\frac{3}{4}$ cents per 1000 gallons.
 Over 20000 gallons per day, $11\frac{1}{2}$ cents per 1000 gallons.

We hereby certify that the foregoing is a true copy of the Contract with the Napanee Water Works referred to in the by-law of the town of Napanee, read a first time Nov. 12th, 1909, and read a second time Nov. 15th, 1909.

T. W. SIMPSON,
Mayor.

W. A. GRANGE,
Clerk.

Napanee, Nov. 26th, 1909.

CHAPTER 120.

An Act respecting the Town of Niagara

Assented to 7th March, 1910.

Preamble.

WHEREAS Henry Winnett of the City of Toronto in the County of York, Hotel-keeper, has by Petition prayed that an Act may be passed to ratify, confirm and legalize By-law No. 583 of the Municipal Corporation of the Town of Niagara in the County of Lincoln, fixing the assessment on the property of the said Henry Winnett in the said Town at the sum of thirty-seven thousand, five hundred dollars, for each and every year of the years 1911 to 1920, both years inclusive; and whereas the said Municipality has by Petition prayed for the passing of the said Act and on the ground that the same is in the interest of the said Municipality; and whereas it is expedient to grant the prayer of the said petition.

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law No.
583 fixing
assessment of
Queens Royal
Hotel
confirmed.

1. Subject to the provisions of section 2 By-law No. 583 of the Municipality of the Town of Niagara, set forth in Schedule "A" to this Act is hereby confirmed and declared legal and binding for all purposes on the said Town of Niagara, and the rate-payers thereof, notwithstanding anything in any Act to the contrary.

By-law to be
submitted to
ratepayers.

2. The said by-law shall be submitted to and approved of by two-thirds of those voting of the qualified ratepayers in the manner provided by *The Consolidated Municipal Act, 1903*, except that publication of the By-law once a week for two successive weeks in a newspaper published in the said town shall be a sufficient compliance with the provisions of the said Act and the voting on the said By-law may be taken at any time after the expiration of two weeks from the date of the first publication thereof.

SCHEDULE

SCHEDULE "A."

BY-LAW NUMBER 583.

A By-law to fix the assessment on the property of Henry Winnett.

WHEREAS Henry Winnett has represented to the Council of the Town of Niagara that he is desirous of enlarging the hotel premises owned by him in said Town and known as the Queens Royal Hotel and has applied to the said Council for a fixed assessment on his real estate upon which the said hotel building is erected.

And whereas the said enlargement will be in the public interest and the Council has agreed to grant the request of the said Henry Winnett upon certain terms as set forth herein, and to pass this By-law for that purpose, subject to the confirmation thereof by the Legislature of the Province of Ontario.

The Corporation of the Town of Niagara enacts as follows:—

1. This By-law shall take effect upon and only upon the confirmation thereof by the Legislature of the Province of Ontario.

2. The assessment of the land of Henry Winnett in said Town and occupied and used by him for hotel purposes, and being all the land owned by him and lying on the east side of Front Street and between Front Street and the Niagara River, while used and held by him or his successors in title for hotel purposes, and including the business assessment thereof on which taxes are to be levied, shall be fixed and remain fixed while the same are so used or held at the sum of thirty-seven thousand and five hundred dollars (\$37,500.00) for a period of ten years from the first of January, 1911, but the same shall for school purposes be and remain liable to assessment and the payment of school taxes and rates to as full an extent as if this By-law had not been passed, and the assessment for school purposes and the school rates and taxes shall be made, levied, and collected thereon in accordance with the provisions of the general law in that behalf, and the said lands shall also be liable for all frontage and local improvement assessments, rates and taxes, that may be charged against the same.

3. The charges for water rates upon and in respect of the whole of the said property shall be fixed at the sum of four hundred dollars (\$400.00) per season for a period of ten years from the first day of January, 1911, provided, however, that if the said Henry Winnett or the owners of the said property shall install a hydraulic elevator or elevators in the said building the usual charge therefor shall be made in addition to the said sum of four hundred dollars (\$400.00).

4. The Mayor and Clerk of this Corporation are directed to execute a Petition under the seal of this Corporation to the Legislature of the Province of Ontario asking that this By-law be confirmed.

Read a third time and passed in Council this 13th day of January, A.D., 1910.

[Seal.]

(Sgd.)

JAS. AIKINS,

Mayor.

[Seal.]

(Sgd.)

J. H. BURNS,

Clerk.

CHAPTER 121.

An Act respecting the City of Ottawa.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Corporation of the City of Ottawa has by its petition prayed for special legislation in regard to the matters hereinafter set forth; and whereas the Government of Canada and the said Corporation have heretofore entered into a certain agreement embodied in a certain Order in Council and set out as Schedules "A" and "B" to this Act; and whereas the said Corporation is desirous that the said agreement as amended by certain Statutes of Canada hereinafter mentioned should be declared to be valid and binding and to continue so to be for a period of ten years from the 9th day of December, 1909; and whereas the said Corporation has prayed for authority to enter into a further agreement with respect to the construction of certain improvements in the City of Ottawa and the neighborhood thereof by the Ottawa Improvement Commission; and whereas the said Corporation has prayed for authority to apply certain sums to be raised annually towards the payment of the debt contracted for the cost of paving with asphalt Sparks Street from Canal Street to Bank Street, being the principal business street in the said City; and whereas there is danger that the discharge of sewage from the Town of Aylmer in the Province of Quebec above the City of Ottawa on the Ottawa River will contaminate the water supply of the said City and the said Corporation has prayed for authority to enter into an agreement with the corporation of the said Town to contribute towards the cost of constructing a septic tank in connection with the sewerage system of the said Town with a view to avoiding such danger; and whereas the circumstances above set out are exceptional; and whereas it is expedient to grant the prayer of the said petition:

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) The Agreement between the Government of Canada and the said Corporation based upon the Order in Council of the 17th June, 1885, and By-law No. 607 of the said Corporation set forth respectively as Schedules "A" and "B" hereto, always was valid and binding and, as amended by the Statutes of Canada, 63 Victoria, Chapter 10, and 3 Edward VII., Chapter 45, is still subsisting, valid and binding and, except in so far as the same may be altered by the agreement hereinafter authorized to be made, shall continue so to be for a period of ten years from the 9th day of December, 1909, but shall then lapse and become void and no longer have any force or effect.

Agreement with Dominion Government based on Order in Council of 17th of June, 1885, and on By-law 607 confirmed.

(2) The said Corporation may enter into a further agreement with the Government of Canada upon the terms contained in the Order in Council of the 9th December, 1909, set forth as Schedule "C" hereto for a period of ten years from the said 9th day of December, 1909; may acquire by expropriation or purchase and transfer to the Ottawa Improvement Commission for the extension of its driveway around Nepean Point to Sussex Street and Rideau Hall, in the said City, the properties on Sussex Street mentioned in the said Order in Council of the 9th December, 1909; and may furnish fire protection and water for all buildings owned, leased or occupied by the said Government within the said City or in the vicinity thereof; and shall not assess or levy or collect any tax from any person resident in the said City in the service or employ of the said Government in respect of the income of such person derived from such occupation, for a period of ten years from the said 9th day of December, 1909.

Further agreement with Dominion Government authorized.

(3) In the event of the said Corporation failing to agree with the owner of any of the said properties taken or acquired under the authority of the next preceding sub-section as to the compensation to be paid therefor, the amount of the compensation shall be determined by arbitration in the manner provided by *The Consolidated Municipal Act, 1903*, with respect to lands taken or injured.

Compensation for lands taken or injured

(4) To provide for the cost of the purchase of the said properties on Sussex Street mentioned in the said Order in Council of the 9th December, 1909, the said Corporation without obtaining the assent of the electors may borrow upon an issue of debentures, bearing interest at such rate as the Council of the said Corporation may determine and payable in forty years from the date thereof a sum not exceeding \$75,000.

Issue of debentures for \$75,000 to pay for properties on Sussex St. confirmed.

Payment out
of general
fund of
balance of
ratepayers'
share
under
By-law No.
1557.

2. The said Corporation may assume and pay in each year out of the general fund the sums yet remaining to be raised annually, under the provisions of By-law No. 1557 of the said Corporation, passed on the 6th day of May, A.D. 1895, for the payment of the debt and the interest thereon created by the said by-law to provide for the payment of the ratepayers' share of the cost of paving with asphalt, as a local improvement, Sparks Street from Canal Street to Bank Street, in the said City.

Authority to
contribute
\$2,500 to
Town of
Aylmer
toward cost
of septic
tank.

3. The said Corporation may enter into an agreement with the Town of Aylmer, in the Province of Quebec, for the construction by the said Town of a Septic Tank in connection with the sewerage system of the said Town, and may contribute towards the cost of such construction a sum not to exceed \$2,500.

Construction
of conduits
for trans-
mission of
electricity,
etc.

4. The said Corporation without obtaining the assent of the electors, but subject to the approval of the Ontario Railway and Municipal Board, may construct pipes or conduits for enclosing wires for the transmission of electricity under Sparks Street, in the said City, and may use such pipes or conduits for the purposes of the said Corporation, and may enter into agreements with Electric Light or Power, Telegraph or Telephone Companies for the use of the same and for the payment of such rental as may be agreed upon and may issue debentures, bearing interest at such rate as the Council of the said Corporation may determine, and payable in thirty years from the date thereof, for a sum sufficient to pay for the construction of such pipes or conduits.

Establish-
ment of
Citizens'
Publicity
Bureau

5. (1) The said Corporation may enter into an agreement with the Board of Trade of the said City for the establishment and for the maintenance and management for a period of three years of a "Citizen's Publicity Bureau," with the object and for the purpose of advertising the advantages of the said City, as a place of business and residence, to be managed by a Committee to be composed of the Mayor and Controllers for the time being of the said City, two Aldermen to be appointed annually by the Council of the said City and four other members to be elected annually by the said Board of Trade.

Incorporation
of Bureau.

(2) The said Bureau shall be a body corporate and politic with power to make contracts and to sue and be sued.

City to
contribute
\$10,000 and
Board of
Trade \$5,000
annually for
three years.

(3) The Corporation of the City of Ottawa may contribute towards the maintenance of said Bureau during each of the said three years the sum of \$10,000, but the said sum of \$10,000 shall not be paid over to the said Bureau in any year until the Auditor of the said City shall have certi-
fied

fied that the sum of \$5,000 has been paid over in that year by the said Board of Trade.

6. Notwithstanding anything contained in *The Consolidated Municipal Act, 1903*, or in any other Act or in any by-law of the Corporation of the City of Ottawa, the said Corporation may provide out of its general funds for the payment of two-thirds of the cost of paving George Street and York Street between Sussex Street and Dalhousie Street, in the said City, with asphalt as local improvements, in addition to the cost of such work opposite street intersections and exempt properties.

Authority to pay two-thirds of cost of certain local improvements out of general fund.

7. Section 8 of Chapter 87 of the Statutes of 1906, intituled "An Act respecting the City of Ottawa," is amended by substituting for the figures "10,000" where the same occur in the fifth line thereof, the figures "13,000," and Section 12 of Chapter 102 of the Statutes of 1908 intituled "An Act respecting the City of Ottawa," is amended by substituting the figures "13,000" for the figures "10,000" where the same occur in the fourth line thereof, and Section 8 of By-law No. 2151 appended as Schedule "A" to Chapter 55 of the Statutes for 1902 intituled "An Act respecting the establishment of the Carnegie Library in the City of Ottawa," is amended by substituting the word "Nine" for the word "Eight" where the same occurs in the third line thereof.

6 Edw. VII. c. 87, s. 8; 8 Edw. VII. c. 102, s. 12; 2 Edw. VII. c. 55, sched. "A," amended.

8. The said Corporation without obtaining the assent of the electors may borrow upon an issue of debentures bearing interest at such rate as the Council of the said Corporation may determine, and payable in twenty years from the date thereof, a sum not exceeding \$7,000 to provide for the cost of fittings, fixtures and furniture for the new Registry Office in the said City.

Issue of debentures for \$7,000 for fittings, etc., for new Registry Office.

9. The said Corporation without obtaining the assent of the electors may borrow upon an issue of debentures bearing interest at such rate as the Council of the said Corporation may determine, and payable in twenty years from the date thereof, a sum not exceeding \$20,000 to provide for the cost of erecting new Fire Stations in the said City, and for the purchase of fire appliances and equipment.

Issue of debentures for \$20,000 for erection of fire stations and cost of appliances, etc.

10. The said Corporation without obtaining the assent of the electors may borrow upon an issue of debentures bearing interest at such rate as the Council of the said Corporation may determine, and payable in twenty years from

Issue of debentures for \$9,000 for cost of Gamewell Fire Alarm Repeater.

the date thereof, a sum not exceeding \$9,000, to provide for the cost of the supply and installation of a Gamewell Fire Alarm Repeater in the said City.

Special
rate.

11. For the payment of the debt and interest represented by the debentures to be issued under sections 2, 5, 9, 10 and 11 hereof, there shall be annually raised, levied and collected by the said Corporation during the currency of the said debentures by an annual special rate upon the whole of the assessable property of the said Corporation, according to the last revised assessment roll thereof, a sum sufficient to discharge the said debt and interest when the same shall be respectively payable.

By-law No.
2977 in
Schedule "D"
confirmed.

12. By-law No. 2977 of the Corporation of the City of Ottawa intituled "A By-law to grant certain privileges to The Metropolitan Electrical Company of Ottawa, Limited," which By-law is set out in Schedule "D" to this Act is confirmed and declared to be legal, valid and binding upon the said corporation and the inhabitants thereof.

SCHEDULE "A"

Certified Copy of a Report of a Committee of the Hon. the Privy Council approved by His Excellency the Governor-General in Council on the 17th June, 1885.

On a Memorandum dated 29th May, 1885, from the Minister of Public Works, submitting that on the 21st December, 1883, an Order-in-Council was passed authorizing that with a view to the settlement of matters between the Government and the City of Ottawa, the Government should assume:—

1st:—The cost of maintenance of the Dufferin and Sapper's Bridges and the Bridges over the Slides.

2nd:—The cost of maintenance of Wellington Street between Dufferin Bridge and Bank Street; and,

3rd:—The making free to the Public the use of the Suspension Bridge between Ottawa and Hull, on condition that the City Corporation by By-law or other legal obligation should accept the same in full of all claims for compensation from the Government as well as of all claims for income tax from Civil Officers and Servants.

The Minister represents that upon being communicated with, the Corporation requests that instead of the above the following mentioned arrangement might be adopted, viz.:—

The Government to assume the maintenance of the "Major's Hill Park," assume, maintain and keep in repair the Dufferin and Sapper's Bridges and that portion of Wellington Street between Dufferin Bridge and Bank Street, and assume control over, maintain and provide the Police Force for the City.

The Minister further submits that the matter was again submitted to Council, and that on the 11th January, 1885, an Order-in-Council was passed authorizing the Government to resume possession of "Major's Hill," assume the charge and maintenance of the two Bridges over the Rideau Canal, viz., Dufferin and Sapper's Bridges, keep Wellington Street, between Dufferin Bridge and Bank Street, in a proper state of repair, by grading, etc., as also the sidewalks of that street between the limits mentioned, assume the maintenance of the Bridges over the Slides and abolish the tolls on the Suspension Bridge between Hull and Ottawa, and that a copy of said Order-in-Council of 11th January was duly forwarded to the Mayor of Ottawa.

That the Corporation then memorialized the Government proposing certain terms of settlement in lieu of those authorized by the last mentioned Order-in-Council, and that on the 6th March last an Order-in-Council was passed approved to the effect that the prayer of the Corporation be not granted, but that the terms of the Order-in-Council of the 11th January last be adhered to, and the Mayor of Ottawa was so informed.

The Minister further represents that the Members of Parliament for the City now suggest that in addition to the terms of settlement stated in such Order-in-Council of the 11th January, the following concessions be made, viz.:—

The Government to keep the Bridge over the Rideau Canal River at New Edinburgh, known as McLaren's Bridge, in repair; keep in repair the Maria Street Bridge over the Rideau Canal, and construct and keep in repair substantial sidewalks in front of Cartier Square on Elgin Street and along Maria Street to the Maria Street Bridge, and they, the City Members, state that if these proposed further concessions be agreed to, they have no doubt an amicable adjustment will be immediately arrived at between the Government and the City.

The Minister of Public Works does not deem it advisable that the Government should undertake to keep in repair the Bridge over the Rideau River at New Edinburgh. He, the Minister, however, recommends with a view to the settlement of the matter, that in addition to the concessions stated in the Order-in-Council of the 11th of January, 1885, the Government do agree to keep in repair the Maria Street Bridge and to place sidewalks, when required, on Elgin and Maria Streets, in front of and along the near side of Cartier Square, and that authority be given to inform the Corporation of Ottawa that such is the final decision of the Government in the case.

The Committee concur in the foregoing recommendations of the Minister of Public Works and they submit the same for Your Excellency's approval.

(Sgd.) J. J. MCGEE,
Clerk, Privy Council.

SCHEDULE "B"

BY-LAW NO. 607.

Being a By-law to ratify and confirm an agreement entered into between the Government of Canada and the Corporation of the City of Ottawa.

Whereas there have been differences between the Government of the Dominion of Canada and the Corporation of the City of Ottawa, in regard to the several matters hereinafter mentioned; and whereas, an agreement has been arrived at for the settlement of such differences upon the following terms, that is to say:—

1. That the park known as the Major's Hill Park shall hereafter be under the control of the said Government of Canada, and that the said Government of Canada will resume possession of the same.

2. That the Government of Canada shall and will maintain, repair and keep in repair three bridges over the Rideau Canal, namely Dufferin, Sapper's and Maria Street Bridges, and also the bridges over the Chaudiere Slides in the City of Ottawa.

3. That the Government of Canada shall and will put in a good state of repair, and maintain, and keep in repair that portion of Wellington Street between Dufferin Bridge and Bank Street, and shall and will repair and maintain good and sufficient sidewalks on both sides of the said portion of Wellington Street.

4. That the Government of Canada shall and will at the earliest opportunity seek from Parliament authority to abolish, and shall and will, so soon as such authority is obtained, abolish all tolls on the Union Suspension Bridge over the Ottawa River connecting the cities of Ottawa and Hull.

5. That the Government of Canada shall and will, whenever in the opinion of the Council of the City of Ottawa, it may be necessary or desirable to have sidewalks erected on the portion of Elgin and Maria Streets in the front of and along the rear side of Cartier Square, erect such sidewalks and thereafter maintain and repair the same.

6. That the said Government of Canada shall and will indemnify and keep indemnified the said Corporation of the City of Ottawa from all manner of loss, damage or injury, suits, claims and demands on account of the said works hereinafter mentioned, or incurred by reason or in consequence of the execution thereof, or the supply of material therefor, and that the said Government of Canada shall and will pay to the said Corporation on demand any expense sustained by them in consequence of such claims or any money reasonably and properly paid by the said Corporation in settlement therefor.

7. That if the said Government of Canada perform and do all the work hereinbefore mentioned and indemnify and keep indemnified the said Corporation as herein stipulated, the said Corporation will accept the same in full satisfaction and discharge of all claims for compensation heretofore existing against the said Government of Canada.

8. That the said Corporation further undertakes and agrees to make no claim for taxes on the income of officers and servants of the Government of Canada derived from the said Government for services rendered to the said Government that may have accrued to the Corporation, or that may hereafter accrue to the said Corporation so long as the previous conditions and obligations of the said agreement are kept, observed and performed by the said Government of Canada.

And whereas, it is expedient and desirable to ratify and confirm the said agreement.

Therefore, the Council of the Corporation of the City of Ottawa, enacts and ordains as follows:—

1. The terms and conditions of the said agreement as hereinbefore recited are hereby ratified and confirmed.

Given

Given under the Corporate Seal of the City of Ottawa, this tenth day of August, A.D., 1885.

Certified:

W. P. LETT,
City Clerk.

F. McDUGAL,
Mayor.

SCHEDULE "C"

Copy of a Report of the Committee of the Privy Council approved by His Excellency the Deputy Governor-General on the 9th December, 1909.

On a memorandum dated the 27th November, 1909, from the Minister of Public Works, stating that, based on Orders-in-Council dated 21st December, 1883, 11th January, 1885, and 17th June, 1885, and City By-law Number 607, of 10th August, 1885, an agreement was entered into between the Federal Government on the one part and the City of Ottawa on the other, in the following terms: The Government of Canada to assume the cost of maintenance of the Dufferin and Sapper's Bridges and Bridges over the Slides; the cost of maintenance of Wellington Street, including the sidewalks between Dufferin Bridge and Bank Street; the making free to the public the use of the Suspension Bridge between Ottawa and Hull; resume possession and maintain Major's Hill Park; keep in repair the Maria Street (now Laurier Avenue) Bridge, and to place sidewalks when required on Elgin and Maria (now Laurier Avenue) Streets in front of and along the near side of Cartier Square, all on condition that the City Corporation by By-law or other legal obligation should accept the same in full of all claims for income tax from Civil Officers and Servants.

The Minister further states that the above cited agreement was continued and enlarged by Statute 63 Victoria, Chapter 10 (1889), when the Ottawa Improvement Commission was established. Under this Act the Government of Canada agreed to pay an annual grant, for a period of 10 years, of \$60,000 to the Improvement Commission to be expended in beautifying the City of Ottawa and surroundings on condition that nothing contained in the Act should in any way alter or change the agreement existing between the Government and the Corporation with regard to the control and possession by the Government of the said Major's Hill Park; the abolition of tolls; claim for Civil Servants' income tax, etc., etc. This Act was amended by Statute 3 Edward VII., Chap. 45 (1903) extending the grant for a further period of ten years, with power to borrow by issuing debentures.

The Minister observes that the agreement made with the City of Ottawa, under the above cited Act, having expired on the 1st July, 1909, the Corporation memorialized the Government proposing certain terms of settlement in lieu of those already authorized, and submitted items for which it is claimed the Government is indebted to the City, such as cost of fire protection, supply of water for various purposes, local improvements, etc. It was also urged that the Government, in recognition of the fact that Ottawa is the Capital of the Dominion of Canada, should, in addition to the settlement of whatever indebtedness it might be under to the City, grant a reasonable sum from the Federal Treasury for the embellishment and beautification of the National Capital.

That as a result of negotiations between the City authorities and the Government, it is proposed that the latter make to the City an additional grant, said grant to be considered to be in full satisfaction

tion and discharge of all claims and demands on the Government by or on the part of the Corporation of the City of Ottawa, and for the furtherance of plans for improving and beautifying the City, and a new agreement is suggested along the following lines:

The agreement entered into under Order-in-Council of 17th June, 1885, and City By-law No. 607, of 10th August, 1885, to be continued as amended by Statute 63 Victoria, Chap. 10 (1889) and Statute 3 Edward VII., Chap. 45 (1903).

The City to purchase and transfer to the Improvement Commission eleven properties on Sussex Street, for the extension of the Driveway around Nepean Point to Sussex Street and Rideau Hall.

The City to furnish fire protection for all Government-owned buildings and buildings leased or occupied by the Government within the City or vicinity.

The Minister recommends that legislation be introduced at the coming session of Parliament confirming this agreement, said legislation to provide:

For an additional grant of \$40,000 a year (making a total annual grant of \$100,000) to the Ottawa Improvement Commission for the purpose of maintaining, improving and extending the present Driveway.

For the payment of a sum of \$15,000 a year directly to the City of Ottawa as a contribution towards the maintenance of the City Fire Brigade.

These payments to extend over a period of ten years to date from the 1st July, 1909, to the 1st July, 1919.

SCHEDULE "D"

BY-LAW No. 2977.

A By-law to grant certain privileges to the Metropolitan Electrical Company of Ottawa, Limited.

Whereas the Metropolitan Electrical Company of Ottawa, Limited, have applied to the Council of the Corporation of the City of Ottawa for the right to construct and operate, within the City of Ottawa, works for the production and distribution of heat and power by electricity and for such purposes to construct, erect and maintain poles and lines for the conveyance of electricity along and under the streets, squares, bridges and other public places of the said city; and whereas it is expedient to grant such right;

Therefore, the Council of the Corporation of the City of Ottawa enacts as follows:

1. That the Metropolitan Electrical Company of Ottawa, Limited, or such other Company as may at any time hereafter during the period hereinafter mentioned be organized to take over the assets and property and to carry on the business of the Metropolitan Electrical Company of Ottawa, Limited, shall be and they are hereby authorized and permitted to construct and operate within the City of Ottawa, works for the production and distribution of heat and power by electricity and for the said purposes to construct, erect and maintain conduits, poles and wires for the conveyance of electricity along the sides of, across and under the streets, lanes, squares,

bridges

bridges and other public places of the City of Ottawa and for the said purposes to convey electricity thereby under and subject to the provisoes, conditions and restrictions hereinafter mentioned and such regulations as may from time to time be deemed necessary and enacted by the Council of the said Corporation for the protection of the persons or property of the citizens of the said City of Ottawa for the period of twenty-five years from the date of the passing of this By-law, except that the said Company shall not, without the express permission of the Council of the said Corporation, erect additional poles on those portions of Sparks and Wellington Streets lying between Bay and Elgin Streets.

Provided however, that the route and method of distribution within the said City of Ottawa, of the heat and power to be produced as aforesaid by the said Company, shall be subject, at all times, to the approval of the City Engineer for the time being of the said City of Ottawa.

2. That the said Company are hereby authorized and permitted from time to time to use all or any of the poles or conduits of the said Corporation erected or to be erected and all or any of the poles or conduits erected or to be erected by any person, persons, company or companies (the poles or conduits of which the said Corporation now has or hereafter may have power to authorize the Company to use) provided that such user shall not interfere with the efficiency or operation of the system of the said Corporation or of such other person, persons, company or companies and that the said Company shall pay such compensation for such privileges as in the event of the parties being unable to agree shall be determined by arbitration as hereinafter mentioned. The Company may also for said purposes use the poles or conduits of any telegraph, telephone or railway company on any of the streets of the City of Ottawa with the consent of such Company or companies.

3. That the said Company shall permit and allow the said Corporation or any person or persons, company or companies, authorized by the Council of the said Corporation, to use the poles of the said Company for electric purposes on paying to the said Company such compensation for such privileges as, in the event of the parties being unable to agree, shall be determined by arbitration as hereinafter mentioned, provided that such privilege shall not interfere with the efficiency, operation and completion of the system of the said Company, and provided further that the privilege by this clause conferred shall not be extended to any person or company which shall refuse a like privilege to the said company.

4. That the said compensation shall be such as may be agreed upon by the said Company and such other person or persons, company or companies so authorized to obtain such privileges as aforesaid as the case may be, and in the event of their being unable to agree, such compensation shall be referred to the determination and award of two arbitrators, one to be chosen by each of the said parties to such dispute, and if two such arbitrators shall not agree, an umpire previously chosen by them shall decide, and his decision shall be conclusive on all parties, and in case either of the said parties to such dispute shall neglect or fail to appoint an arbitrator within seven days after the request in writing by the other party, then the arbitrator appointed by the other party may proceed alone, and his award shall be conclusive on all parties, and such reference and arbitration shall be deemed to be subject to the provisions of Chapter 62 of the Revised Statutes of Ontario, 1897, or any Statutory provisions then in force in Ontario relating to voluntary submissions.

5. That the said Company shall not in the construction, erection and maintenance of the said works, interfere with the public right of travelling on or using such roads, streets, lanes, squares, bridges or other public places; and the water-courses and side-walks of the same and the entrance to all doors, gateways, public and other buildings, shall be kept free and unobstructed and lights, barriers

and

and watchmen shall be provided and kept by the said Company during the construction of the said works for the protection and safety of the public using the said roads, streets, and other public places.

6. That the poles used by the said Company shall be straight and perpendicular, and the location of such poles shall be subject to the approval of the City Engineer, for the time being, of the said City of Ottawa, and shall be painted pursuant to the requirements of any By-law of the Council of the Corporation of the City of Ottawa hereafter to be enacted in that behalf.

7. That the said Company shall not cut or trim shade trees within the limits of the City until after twenty-four hours' notice in writing has been given to the City Engineer and to the proprietor of the lands (if resident) upon or opposite which the said trees may be situated and that such trees when trimmed or cut in any way, shall be so cut or trimmed in season, by a person skilled in such work and in a proper manner, as shall be directed by the City Engineer, at the expense of the said parties, and neither of them shall cut down or remove any such shade trees without the express permission of the Council of the Corporation.

8. That the works of the said Company, on the streets and bridges of the City of Ottawa, and the mode of construction of the same shall be subject to the approval of the Council of the Corporation of the City of Ottawa; and the said Company shall, whenever directed by the said Council, take down and remove all material and work disapproved of by said Council, or the said Council can, on giving one month's notice to the said Company, have the same taken down and removed at the expense of the said Company.

9. If at any time the said Company shall be required by Act of Parliament or Act of the Legislature or By-law of the said Corporation to place their wires under the surface of the streets of the City of Ottawa, then the said Company shall, at their own costs, charge and expense, remove from the public streets of the said City of Ottawa, all poles and other works, material and plant to be erected and used by them for the purposes aforesaid, and in the event of the said Company failing to so remove the said poles and other works within six months after notice has been given to them by the said Council, then the said Council may, without any compensation to the said Company, remove the said poles and other works at the cost, charge and expense of the said Company.

10. That the said Company shall and will indemnify and keep indemnified the said Corporation and the officers, servants and agents thereof from all manner of loss, damage and injury, suits, claims and demands on account of the said works and the operation of the same, or incurred by reason, or in consequence of the execution thereof, or the supply of material therefor, and they shall and will pay to the said Corporation on demand, any reasonable expense which the said Corporation may incur, or be put to, in consequence of such suits, or any money paid by the said Corporation with the consent of the said Company in settlement thereof and the amounts so paid or payable by the said Corporation may be recovered from the said Company as money paid at its request.

11. That upon the construction of the said works or any extension thereof, or any repairs thereto, the roads, streets, lanes, sidewalks, highways, bridges, squares and other public places shall be put in as good repair by the said Company as they were in when such construction, extension or repairs were commenced.

12. That the powers and privileges hereby conferred are granted upon the express condition that the said Company shall, within three years from the date of the passing of this By-law, be in a position to deliver within the said City of Ottawa, to any person or persons, corporation or corporations, requiring or applying

for the same, electricity for the purposes of heat or power to the extent in the aggregate of one thousand horse power and that in event of default in this respect on the part of the said Company the powers and privileges hereby conferred shall lapse and become forfeited.

13. That at the expiration of the said period of twenty-five years or in the event of the said Company in the meantime ceasing to operate its system or any portions thereof in the said City of Ottawa, or in the event of the said Company making default in respect of the condition contained in the immediately preceding paragraph, the said Company shall remove its poles and other works from the streets, squares and other public places in the said City of Ottawa or the portions thereof on which the said Company has ceased to operate, or the said Corporation may remove the said poles and works at the expense of the said Company and the said Corporation shall have a first charge or lien on the property so removed for the expense incurred by such removal.

14. The votes of the electors of the said City of Ottawa shall be taken on this By-law at the following times and places, that is to say: at the same hour, on the same day, at the same places, and by the same Deputy Returning Officers as for the Municipal election for the year 1910.

15. On Friday the 31st day of December A. D. 1909 the Mayor of the said City of Ottawa shall attend at the City Hall of the said City at 10 o'clock in the forenoon to appoint persons to attend at the various polling places aforesaid and to the final summing up of the votes by the Clerk on behalf of the persons interested in or promoting or opposing the passing of this By-law respectively.

16. The Clerk of the said City of Ottawa shall attend at the City Hall of the said City of Ottawa at 11 o'clock in the forenoon of Tuesday the 4th day of January A. D. 1910 to sum up the number of votes given for or against this By-law.

Given under the Corporate Seal of the City of Ottawa this 14th February, 1910.

Certified

(Sgd.)	JOHN HENDERSON,	
		City Clerk.
(Sgd.)	CHAS. HOPEWELL,	
		Mayor.

CHAPTER 122.

An Act respecting the Town of Penetanguishene.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Municipal Corporation of the Town of Penetanguishene has by its petition represented that it has incurred a floating indebtedness of \$24,220, made up as follows:—\$10,000, a deficiency in sinking fund created under the authority of By-Laws 136 and 147 for redeeming debentures issued thereunder for harbour improvement and for the purchase of a waterside park respectively; \$3,250 for permanent improvements in grading and paving streets and constructing a cement bridge; \$6,055 for water-works extensions rendered necessary by reason of the growth in population and for the protection of manufactories; \$1,815 for artesian wells sunk in connection with the water-works system; \$1,500 for a cement dam for a water reservoir; \$550 for water meters installed; \$350 for a cement walk at the Public School, and \$700 for the purchase of a Public Library site; and that the said corporation desires to expend the further sum of \$2,000 for the construction of a sewer to the High School and for a trunk sewer up the main street, \$280 for steel culverts and sewers under the Grand Trunk Railway tracks, and \$1,000 for further installing additional water meters; that the amount of the rateable property of the said town according to the last revised assessment roll is \$938,469, and the existing debenture debt of the said town (exclusive of the said \$10,000 now included in the floating debt) is \$97,264—of which sum \$26,000 is for water-works, \$15,233.51 for Public School and \$22,290.25 for High School. And whereas the said corporation by its said petition has further represented that to liquidate the said floating indebtedness forthwith, in addition to meeting the ordinary necessary annual expenses of the municipality, would be unduly oppressive to the ratepayers; and has prayed that authority be given to borrow \$24,220 to pay off the said floating debt and \$3,280 required for sewers, culverts and water meters as above set out, and whereas the said Corporation has also by its said petition prayed that Local Improvement By-Laws 421 and 422, particular

ticulars of which are set out in Schedule A hereto, should be confirmed; and whereas it is expedient to grant the prayer of the said petition.

THEREFORE His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The floating debt of the Corporation of the Town of Penetanguishene is consolidated at the sum of \$24,220, and the said Corporation may borrow by a special issue of debentures a sum not exceeding \$24,220 for the purpose of paying the said floating debt.

Floating debt consolidated at \$24,220.

2. The said Corporation may also borrow by a special issue of debentures a sum not exceeding \$3,280 for constructing sewers and culverts and installing water mains as set out in the Preamble hereof.

Authority to borrow \$3,280 for sewers and culverts.

3. The said debentures shall be made payable in not more than thirty years from the date of issue thereof, and shall bear interest at a rate not exceeding 5 per cent. per annum, and may be issued either with or without coupons attached thereto for interest, and shall be payable at such place or places as the Corporation may deem expedient.

Term of debentures and rate of interest.

4. The said debentures shall be payable in equal annual instalments of principal and interest, in such manner and of such amounts that the amount payable for principal and interest in any year shall be equal as nearly as may be to what is payable for principal and interest during each of the other years of the period within which the said debts are to be discharged.

Debentures to be paid off by equal annual instalments of principal and interest.

5. The said Corporation shall levy in each year during the period within which the said debt is payable, in addition to all other rates, a special rate sufficient to produce and pay the annual instalments of principal and interest falling due upon the said debentures.

Special rate.

6. The debentures and all moneys arising from the sale thereof under section 1 shall be applied in payment of the said floating debt and for no other purpose, and the debentures and all moneys arising from the sale thereof under section 2 shall be applied to the purposes mentioned in that section and for no other purpose.

Application of proceeds of debentures.

7. It shall not be necessary to obtain the assent of the electors or ratepayers of the Town of Penetanguishene to the passing of any By-Law which shall be passed under the authority of this Act, or to observe the formalities in relation

Assent of electors not required.

tion

tion thereto prescribed by *The Consolidated Municipal Act, 1903.*

Irregularities
in form not to
invalidate.

8. No irregularity in the form of the said debentures or any of them, or of any By-Law authorizing the issue thereof shall render the same invalid or illegal, or be allowed as a defence to any action brought against the said corporation for the recovery of the said debentures or interest or any part thereof; and the purchaser or holder thereof shall not be bound to inquire as to the necessity of passing such by-law or issuing debentures, or as to the application of the proceeds thereof.

Treasurer to
keep proper
books of
account.

9. It shall be the duty of the Treasurer, for the time being, of the said Town, to keep, and it shall be the duty of each of the members from time to time of the said municipal council to procure such Treasurer to keep, and see that he does keep, a proper book of account, setting forth a full and particular statement, so that the same shall at all times show the number of debentures which from time to time shall be issued under the powers conferred by the preceding sections, and the respective amounts, payment of which is thereby secured, and the times at which the said debentures shall respectively become due and payable, and the several amounts which shall, from time to time, be realized from the sales or negotiations of the said debentures, and the application which shall, from time to time, be made of the said amounts; and the said book of account and statement shall at all times, and at all reasonable hours, be open to the inspection of any ratepayer of the said Town, and of any of the holders, from time to time, of the debentures which shall be issued under the powers hereby conferred or any of such debentures.

By-laws Nos.
421 and 422
confirmed.

10. By-laws 421 and 422 of the said corporation, particulars of which are set out in Schedule A, and all debentures issued or to be issued thereunder, are confirmed and declared to be legal, valid and binding.

SCHEDULE "A."

By-law No. 421 providing for borrowing \$2,075 for the cost of a cement sidewalk along the northerly side of Robert Street from the east side of lot 12, westerly to the west side of Queen Street of six feet in width and thence westerly from the west side of Queen Street to the Grand Trunk Railway crossing west of Centre Street.

By-law No. 422 providing for borrowing \$2,078 for the cost of sewers on Queen, Maria, Burke, Harriet, Robert and Fox Streets.

CHAPTER 123.

An Act respecting the City of Peterborough.

Assented to 19th March, 1910.

WHEREAS the Corporation of the City of Peter- Preamble.
 borough has by petition represented that it is desirable to amend section 1 of chapter 104 of the Acts passed in the 8th year of the reign of His Majesty, as herein provided:—That in the year 1907, a petition was presented to the Council of such City, signed by the majority of the directors of The Peterborough Mechanics' Institute, asking that a Public Library be established under *The Public Libraries Act*, and the said Council on the said day by resolution duly approved of said petition, but as no suitable building was then available for the Public Library, further action was deferred, but since then the Council purchased a site for the said library and there is now in course of erection thereon a suitable building for the same, but subsequent to the receipt of said petition and the acceptance thereof by the Council and the purchase of said land, *The Public Libraries Act* then in force was repealed by chapter 80 of the Acts passed in the 9th year of His 9 Edw. VII.
c. 80. Majesty's reign, which provides a different mode of transferring the management and assets of a Mechanics' Institute to the Board of Management of a Public Library, and it is desirable that the Council of such City may be authorized to pass a By-law, without submitting the same to or receiving the assent of the electors, to take over the assets and property of such Institute and to establish a Public Library under the provisions of *The Public Libraries Act* and 9 Edw. VII.
c. 80. that a board of management for same should be appointed under the provisions of the said Act: That the Board of Trade of the City of Peterborough has requested the Council to appoint an officer to attend to matters appertaining to the industrial development of the City and the employment of such an officer would be beneficial, but there appears to be no authority under *The Consolidated Municipal Act, 1903*, for 9 Edw. VII.
c. 19. making such appointment, and it is desirable that the Council should be authorized to appoint an officer to be called Com-

missioner of Industries, to define his duties and authorities and fix and authorize payment of his salary and the expenses and disbursements of and incidental to his office: That it is desirable that the said Council should be authorized and empowered to finally pass a by-law intituled, "A By-law to aid The Ironclad Company of Canada (Limited)," set out as Schedule "A" hereto, which was submitted to the vote of the duly qualified ratepayers of the said City, on the first day of June, 1909, when 1,239 voted in favour and 84 against the same, and the said By-law was carried by a majority of 1,155, but did not receive the necessary majority required by the provisions of *The Consolidated Municipal Act, 1903*: And that the said By-law, when finally passed, may be declared legal, valid and binding: That the following By-laws of the Corporation should be ratified and confirmed, namely, By-law Number 1482, intituled, "A By-law to amend the By-law to aid the Colonial Weaving Company (Limited)", set out as Schedule "B" hereto, which By-law so amended was confirmed by Section 31 of Chapter 104 of the Acts passed in the 8th year of the reign of His Majesty, and the terms and conditions of said By-law so confirmed as amended by said By-law Number 1482 have been carried out and fulfilled by the said Company, and By-law Number 1491, intituled, "A By-law to fix the assessment of The William Hamilton Company (Limited)", set out as Schedule "C" hereto, by which the assessment of such Company is fixed at the sum of \$10,000 for ten years, except as to school taxes and local improvement rates, which By-laws set out the reasons which induced the said Council to pass the same: And whereas the value of the whole rateable property of the said Municipality according to the last revised assessment roll, is the sum of \$8,813. 273, and the existing debenture debt, including local improvement debts payable by special rates, and the debt incurred for the purchase and improvement of the waterworks, which is a first charge on the waterworks system, is the sum of \$1,273,302.58, the particulars of which are as follows, viz.: Waterworks, \$430,000; local improvements, frontage portion, \$204,133.40; local improvements, general, \$112,482.19; public schools, \$128,900.00; collegiate institute, \$79,036.99; general city debentures, \$316,750.00. And whereas it is expedient to grant the prayer of the said Petition;

Therefore His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

8 Edw. VII.
c. 104, s. 1,
amended.

1. Section 1 of the Act passed in the 8th year of His Majesty's reign, Chaptered 104, intituled "An Act respect-

ing

ing the City of Peterborough," is amended by adding thereto the following subsections:—

(1) In case at any election by general vote, it appears upon the casting up of the votes by the Clerk of the Municipality, that two or more candidates, who have a sufficient number of votes to be elected, have an equal number of votes, the candidate who is assessed the higher on the assessment roll for the year of such election shall be elected and hold office for the term for which he would be elected if he had received more votes than the other candidate who received an equal number of votes.

Case of a tie between candidates at election by general vote.

(2) In case at the first election by wards, it appears at the casting up of the votes by the Clerk of the Municipality, that the two aldermen who are elected for any ward have received an equal number of votes, the alderman who is assessed the higher of the two on the assessment roll for the year of such election shall be elected and hold office for two years and the other alderman elected shall be elected and hold office for one year.

Case of tie at first election by wards.

(3) In case at any election by wards, after the first election, it appears, upon the casting up of the votes by the Clerk of the Municipality, that two or more candidates in any ward or wards, who have received the highest number of votes, have an equal number of votes, the candidate who is assessed the higher on the assessment roll for the year of such election shall be elected and hold office as alderman for the ward in which he is a candidate.

Casting vote of clerk after first election by wards.

(4) While aldermen are elected by general vote in the said City, if the office of any alderman becomes vacant from any cause before the expiration of the term for which he was elected, the Council shall, at a regular meeting held after the vacancy occurs, elect some duly qualified person to fill such vacancy and the person so elected shall hold office for the remainder of the term for which his predecessor was elected.

Filling vacancies.

(5) While the aldermen are elected by wards in the said City, the provisions of sections 212, 213, 214 and 215, of *The Consolidated Municipal Act, 1903*, as to non-election, neglect or refusal to accept office and vacancies or the similar sections of any Act amending or repealing the same, shall apply to new elections of members of the Council of the said City.

Application of certain sections of *The Edw. VII. c. 19.*

(6) If a By-law is passed under the provisions of this section, providing for the election of aldermen by wards instead of by general vote, the Council may by By-law, to be thereafter passed, repeal the same, but such repealing by-law shall not be finally passed or become operative until it shall have been

Power to repeal by-law.

been submitted to; and received the assent of a majority of the electors of the said city voting thereon, and upon a petition signed by at least twenty per cent. of the electors of the said City being presented to the Council on or before the first day of November in any year, asking for the submission of such repealing by-law, it shall be the duty of the Council to pass such by-law and to submit it to the electors of the said city at the then next annual municipal election, and provided the said By-law receives the assent of the majority of the electors voting thereon, to finally pass the same and at the next annual municipal election, after the final passing of the said repealing By-law, members of the Council shall be elected by general vote, as provided by this section, as if the said By-law providing for the election of aldermen by wards had not been passed, and all members of the Council who have been elected by wards shall cease to hold office from and after the first meeting of the Council, whose members shall have been elected by general vote.

Term of
office of
aldermen.

(7) In the event of a By-law being passed under the provisions of this section, providing for the election of aldermen by wards, instead of by general vote, all members of the Council who have been elected by general vote shall cease to hold office from and after the first meeting of the Council, whose members have been elected by wards, and this provision shall be retroactive and shall be read, taken and considered as if originally enacted as part of this section.

Appointment
of commis-
sioner of
industries.

2. The Council of the City of Peterborough may appoint an officer, to be called, "Commissioner of Industries," and may define his duties and authority and fix and pay his salary and the expenses and disbursements of and incidental to his office.

Authority to
take over
Mechanics
Institute and
establish a
Public
Library.

3. The Council of the said City may by By-law, to be passed without submitting the same to or receiving the assent of the electors, take over the assets and property of the Peterborough Mechanics' Institute and establish the library of the said Institute as a Public Library under the provisions of *The Public Libraries Act*, and on the passing of the said By-law all the provisions of *The Public Libraries Act*, applicable thereto, save as herein otherwise expressly provided, shall apply to such Public Library and the board of management thereof, and the appointment, manner of appointment, term of office, duties, authorities and other matters relating to or exercisable by the said board of management in as full and ample a manner as if said by-law had been passed under section 4 of said Act, and said Board shall be a body corporate by the name of The Peterborough Public Library Board.

9 Edw. VII.
c. 80.

that part of Lot Number Sixteen on said Plan lying south of the production easterly of the northerly limit of said Block D and part of the creek known as Beavermead Creek, which said parcels of land may be more particularly described as follows, that is to say: Commencing at the north-westerly angle of said Block D at the water's edge of the River Otonabee—thence easterly along the northerly limit of said Block D and its production easterly 1,008 feet more or less to its intersection with the southerly limit of said Lot Number Sixteen, thence westerly along the southerly limit of said Lot Number Sixteen and its production westerly to the centre or middle thread of said creek—thence southerly with the stream along the centre or middle thread of the creek—thence southerly with the stream along the centre or middle thread of the creek to its intersection with the production easterly of the northerly limit of the right of way of the Grand Trunk Railway—thence westerly along the northerly limit of said right of way and its production easterly 1,128 feet more or less to the water's edge of the River Otonabee and thence north-easterly following the water's edge of the river, being the westerly limit of said Block D 885 feet more or less to the place of beginning, containing by admeasurement thirteen and one-quarter acres more or less, and will make a loan to the Company of \$50,000 to assist in the erection of the said buildings to be secured and repaid as hereinafter provided and will exempt the said land, buildings, machinery and plant from the payment of all taxes (except school and local improvement rates and taxes) for a period of ten years upon the conditions hereinafter set out.

And whereas there is at present in the City of Peterborough no other manufacturing establishment carrying on a business similar to the one intended to be carried on by the said Company, and it is desirable in the public interest in order to secure the said factory to accept the said proposal upon the terms and conditions hereinafter set out.

And whereas it has been arranged between the said Corporation and Company that the said Company should in the meantime purchase, pay for and obtain a conveyance to itself of the said land at the sum of \$3,000, and after the purchase thereof proceed to erect the necessary buildings thereon for its purposes at a cost for said buildings and the furnaces of not less than \$50,000, and that when the said buildings have been erected at the cost aforesaid, the sum of \$25,000 shall be paid by the Corporation to the Company and when the said buildings should be fully equipped with machinery to the value of at least \$100,000 and in operation that the balance of \$25,000, together with the sum of \$3,000 paid for the said land, should be paid over to the Company, provided the terms and conditions hereafter mentioned entitling the Company to the same have been fully complied with and the security hereinafter mentioned given.

And whereas in order to enable the said Corporation to pay for the said land and make the said loan, it will be necessary to issue the debentures of the Corporation for the sum of \$53,000, which is the amount of the debt intended to be created by this By-law.

And whereas the amount of the whole rateable property of the Municipality according to the last revised assessment roll is the sum of \$8,426,778 and the amount of the existing debt of the Municipality, exclusive of local improvement debts, payable by local special rates, but including the debt of \$312,000 incurred for the purchase and improvement of the Waterworks is the sum of \$872,544.09 and there is no part of the principal or interest in arrear.

And

And whereas there will require to be raised annually for a period of twenty years the currency of the debentures to be issued hereunder to pay the interest on the said debt the sum of \$2,252.50 less such part of said sum as may be received from the said Company by way of interest on the said loan of \$50,000 and the instalments of principal to be received from the said Company in repayment of the said loan being sufficient for the purpose of repaying the same at the maturity thereof, it is not necessary that a sinking fund should be created for that purpose, but all payments received from the said Company in repayment of the said loan shall be paid to the Peterborough City Trust to be held and invested and applied in payment of the said debt at the maturity thereof, but there will require to be raised annually during the said period of twenty years for providing a sinking fund for the payment of the said sum of \$3,000, part of the said debt, at the maturity thereof the sum of \$100.75, such sum being sufficient with the estimated interest on the investment thereof to pay the said sum of \$3,000 when the same becomes due.

The Corporation of the City of Peterborough by the Council thereof therefore enacts as follows:

1. This By-law shall take effect on the final passing thereof, but shall not be finally passed or have any force or effect unless or until it has submitted to and received the assent of the requisite number of the ratepayers of the Municipality who are entitled to vote on the By-law or is ratified and confirmed by the Legislature of the Province of Ontario or until the said Company shall have delivered to the Corporation a duly executed agreement to carry out on its part the provisions of this By-law to be performed, observed and kept by the said Company and also an undertaking agreeing not to oppose the construction of any sewers or sidewalks as local improvements that the Council may desire to construct under the provisions of the Municipal Act relating to local improvements. The said Council on its part hereby agreeing to submit the said By-law to the votes of the duly qualified ratepayers of the Municipality and if necessary in order to bring this By-law into effect to apply to the Legislature for the ratification and confirmation thereof by the Legislature.

2. It shall be lawful for the Corporation of the City of Peterborough to borrow the sum of \$53,000 and to issue the debentures of the Corporation therefor, such debentures to be sealed with the Corporate Seal and to be signed by the Mayor and Treasurer, and countersigned by the Secretary of the Peterborough City Trust, to be payable within twenty years from the date of the issue thereof, and to bear interest at the rate of four and one-quarter per centum per annum, payable half-yearly on the thirtieth day of June and the thirty-first day of December in each year, and to have coupons attached thereto for the payment of such interest, such debentures, as to principal and interest to be payable at the office of the Secretary of the Peterborough City Trust at the City of Peterborough.

3. There shall be raised and levied during each year of the currency of the said debentures by a special rate sufficient therefore upon all the property in the City of Peterborough, liable therefor, the sum of \$2,252.50 for payment of the interest on said debentures, less such part of said sum as may be received from the said Company by way of interest on the loan of the said sum of \$50,000, and no sum shall be raised as a sinking fund to pay the same at maturity, but the amount received in repayment of the said loan shall be paid to The Peterborough City Trust and by said Peterborough City Trust held and applied for the payment of the said debentures at the maturity thereof, but there shall be raised and levied during each year of the currency of the said debentures by a special rate sufficient therefor upon all said property liable therefor the sum of \$100.75 as a sinking fund for the payment of the sum of \$3,000 the balance of said debt at the maturity thereof.

4. The said sums amounting in all to \$53,000.00 shall be paid over to the said Company by the said City within one month after the Company shall become entitled to such payments as hereinafter mentioned by complying with the terms and conditions hereinafter set out and furnishing proof by statutory declaration satisfactory to the City Council showing the amounts expended and for what and that all said terms and conditions have been and are being complied with and upon and only upon such terms and conditions, namely:—

1. That the said Company shall on or before the first day of April, 1911, have become properly incorporated with an authorized capital of \$400,000 or more and shall by said date have stock subscribed and paid in to the amount of at least \$100,000 as working capital, none of which stock shall be issued or sold except at par and for cash, but further stock may be issued to the Company supplying the machinery to pay for the same and its Canadian business patents and good-will.

2. That the said Company shall before the 20th day of September, 1909, have acquired and shall hold by a good title in fee simple free of incumbrances the land above described.

3. That the said Company shall if possible within nine months after the obtaining a conveyance of the said land and in any event not later than the 31st day of December, 1911, have erected on said land, buildings of brick, concrete or steel, suitable for the purposes of its business, which buildings shall not be less in area than eighty thousand square feet, not cost less, including furnaces, than \$50,000, and shall have the same within the time above mentioned equipped with machinery and plant suitable for the business of the said Company, to cost not less than \$100,000 (such cost to be ascertained and certified to the Corporation by an appraiser appointed by the Council) and shall have the said factory in operation and employing therein at least one hundred operatives or employees.

4. That the said Company shall have entered into a covenant with the Peterborough City Trust satisfactory to the City Solicitor to observe, perform and keep all the terms, conditions, stipulations and agreements in this By-law mentioned to be observed, performed or kept on its part, including the following:—

(a) That the Company will repay to the Peterborough City Trust interest at the rate of four per centum per annum on the said sum of \$50,000 or that portion thereof from time to time remaining unpaid, until the whole of said loan is repaid, said interest to be computed from the date the said sums of \$25,000 each are paid to the said Company and to be paid half-yearly on the 30th day of June and 31st day of December in each year commencing with the first legal day after the whole of the said money is advanced, and will repay the said City Trust the principal of said loan in ten equal annual instalments of \$5,000 each—the first of such annual instalments to become due and be paid on the 30th day of June, 1921, and yearly thereafter, with the right to said Company to increase the amount of said annual payments or to repay the whole of the said loan or any balance thereof that may remain due at any time in the meantime, with the right to the Council of the said Corporation in its discretion to demand repayment of the said sum or the balance thereof then remaining unpaid, if at any time (except in the case of strikes or damage by fire as hereinafter provided) the said Company shall have in its employment at its said manufacturing establishment in the City of Peterborough for ten months in any year (after the first year of its operation) an average of less than 150 operatives or employees, such repayment to be made, with interest at the said rate of four per centum per annum within three months after the said Council shall have passed a resolution making such demand and mailed a copy thereof addressed to the said Company at the City of Peterborough.

Provided

Provided however that if the failure to employ the said number of operatives or employees as above mentioned in the said manufacturing establishment is due to a general strike of the employees or of a sufficient number of them to prevent the said Company carrying on the said manufacturing business in the regular manner or to the destruction or damage of the buildings or machinery by fire or tempest, so as to prevent the said Company carrying on the said business in the regular manner, the time during which the business shall cease to be so carried on in consequence of such strikes or destruction or damage of the said buildings or machinery, not exceeding in either case one year, shall not be counted in the period to entitle the Council of the said City to demand payment of the amount of the said loan or the balance thereof then due and interest thereon as above mentioned.

(b) That in case default shall happen to be made of or in the payment of the said sum of \$50,000, or any instalment thereof as provided by sub-clause (a) hereof or any part thereof, or of or in the payment of the interest on the same as provided in said sub-clause (a) or any part thereof for the space of one month after the same becomes due and payable or in case of default of or in the doing, observing, performing, fulfilling or keeping of any of the other provisions, agreements or terms herein or in said covenant mentioned, and such default shall continue for one month then in every such case the whole of said sum of \$50,000, or that portion thereof remaining unpaid, shall forthwith become due and payable, and it shall and may be lawful for the City Trust after giving written notice to the said Company of its intention in that behalf either by service on the President or Secretary of the Company or by letter addressed to the Company at the City of Peterborough, not less than thirty days previously, and without any further notice or consent or concurrence of the said Company, to enter into possession of and hold the said lands hereinbefore described and the buildings thereon, and that part of the said plant which are fixtures, and whether in or out of possession of the same, if thereunto authorized by by-law of the Corporation of the said City, to make any lease or leases thereof or of any part thereof, and also if and when considered advisable and if thereunto authorized by by-law of the Corporation of the said City, to sell and absolutely dispose of the same or any of them or any part or parts thereof for any sum or sums and in any way the said City Council may by said by-law direct, and the said City Trust if thereunto authorized as aforesaid shall have power and authority to assure and convey the same if and when so sold to the purchaser or purchasers thereof by proper and sufficient conveyance and conveyances.

(c) That the said Company will until the whole of the said loan is repaid keep the said lands and the buildings and the said fixtures in good order, condition and repair, according to the nature and description thereof, and in case of neglect or default in so doing the provisions mentioned in sub-clause (a) hereof shall apply, by reason of such neglect or default, and the amount of the said loan or of that portion then unpaid shall become payable as in said sub-clause (a) set out.

(d) That the said Company will insure and until the said loan is fully repaid will keep insured against loss or damage by fire the said buildings and fixtures on the land hereinbefore mentioned in the sum of at least the full amount of said loan or the balance thereof remaining unpaid in some Insurance Company or Companies approved of by the said City Trust (such approval not to be unreasonably withheld) and will pay all premiums and sums of money necessary for such purposes as the same shall become due and will make the amount payable under the policy or policies payable to the said City Trust, as its

interest

interest may appear, and will deliver to the said City Trust the policy or policies of insurance when issued and the receipts thereto appertaining respectively not later than three days before the premiums on the said policies become due respectively and in default thereof the said City Trust may pay any premiums or sums of money necessary for said insurance and the said Company shall forthwith repay same with interest at the rate of six per cent. per annum to the said City Trust, it being understood that in the event of the said Company effecting its insurance on its buildings and machinery in the form of a blanket policy or policies and causing the loss if any thereunder to be made payable to the said City Trust to the extent of the unpaid amount of said loan it shall be a sufficient compliance with the said provision as to delivery of policies if the said Company shall deliver to the said City Trust a duplicate of said policy or policies or an acknowledgment by the Insurance Company or Companies of the interest therein of the said City Trust.

(e) That the said Company, as security for the repayment of the said loan will execute and deliver to the said City Trust a first mortgage on the said lands hereinbefore mentioned, and the buildings, plant, machinery, and fixtures thereon, which plant, machinery, and fixtures shall as far as said mortgage is concerned, be held to be part of the realty and covered and embraced in said mortgage, and the said mortgage shall be a continuing security until the said loan is fully paid off according to the terms and conditions of this By-law.

(f) That the said Company shall be at liberty from time to time to substitute new and modern plant and machinery for the said plant, machinery, and fixtures in the said manufacturing establishment, provided the said new and modern plant and machinery is of equal or greater value than that for which it is substituted, and notice is given to the Secretary of the City Trust, giving the price and description of such substituted plant and machinery, and such substituted plant and machinery shall be and remain as security for the said loan until the same is fully paid.

(g) That in consideration of the payment by the Corporation to the Company of the purchase money of the said land above mentioned as hereinafter provided the Company shall agree in case it shall not after the first year of its operations employ at least 150 operatives or employees in its factory as above provided during ten months in any year during any of the ensuing nineteen years that the Company will repay to the Corporation one-nineteenth of such sum as bears to the total price of said land, the same proportion as the deficiency in the number of operatives or employees actually employed in its said factory during any year bears to the total number which should be employed under the terms hereof in said year, and in case the said land and buildings shall at any time within the period of twenty years from the passing of this By-law cease to be used as a manufacturing establishment substantially according to the capacity thereof as hereinbefore set out for a period of twelve consecutive months then the said lands shall enure to and become the absolute property of the Corporation free of any claim thereto by the Company or its assigns unless the Company or its assigns shall within six months after the said period of twelve months pay the said Corporation the full purchase price of said lands, less the proportion thereof calculated for the period said land and buildings have been so used and less such deductions as may have been made under this clause and the conveyance of the said land to the Company shall contain and be subject to the conditions in this sub-clause set out.

5. Until the said loan is fully paid off the City Council shall have the right to nominate and appoint one Director of the said Company, who shall have the same powers and authorities as a

Director

Director appointed by the Shareholders of the Company and the said Company shall provide, by its By-Laws or other proper and legal manner, for the appointment or election of the Director nominated and appointed by the Council.

6. Provided the said Company shall in every respect have complied with, carried out and performed the terms and conditions on its part herein mentioned, entitling it to the same the said City Council will pay to the said Company the sum of \$25,000 the first half of the loan herein provided for as soon as the said buildings of the size and cost heretofore set out are fully erected on the land hereinbefore described and are ready for occupation and will when the said buildings are fully equipped with machinery and plant costing not less than \$100,000 and the said factory is in operation and employing therein at least 100 operatives or employees pay to the said Company the further sum of \$25,000 the balance of the said loan and also the purchase price paid by the said Company for the said land and will, if necessary, and in case the said Company is not allowed to discharge the sewage from its factory into the river directly from the said lands above mentioned, and is compelled either to discharge the same elsewhere or put in a septic or sedimentation tank, provide the necessary outlet from the said lands for such sewage or put in said septic or sedimentation tank.

7. The said Council will also make such arrangements as will enable the said Company to secure electric power up to 1,000 horse power for at least ten years from the time the Company is ready to commence operations at a cost not to exceed twenty dollars per horse power delivered at the switch-board at the said factory—provided the said Company agrees to take and pay for a minimum of 250 horse power and makes a definite agreement as to quantity and otherwise with the Company agreeing to supply the said electric power within six months from the time the said Company shall have been paid the sum of \$50,000 payable hereunder.

8. Provided the said Company shall carry out and continue to carry out the terms and conditions in this By-Law and the said covenant set out, to be performed, observed and kept by it and shall on or before the said 31st day of December, 1911, use and occupy the land above mentioned and the said buildings thereon as a manufacturing establishment and have the same in operation and employing therein the number of operatives or employees hereinbefore mentioned, the assessment of the said land used for the purpose of such manufacturing industry or incidental thereto and the buildings, plant, machinery and fixtures thereon shall for a period of ten years from the first day of January, 1911, be exempt from all taxes, rates and assessments, except taxes for school purposes and local improvement assessments rates and taxes for which the same shall be and remain liable—and the oath of the assessor or assessors shall be amended accordingly, provided, however, that any dwellings erected on said land and the land appurtenant to such dwellings shall not be entitled to any exemption, but shall be assessed as provided by the Assessment Act then in force.

9. The said Company shall prior to the first day of March in each year file with the City Clerk a statutory declaration made by two officers of the Company who shall therein state their knowledge of the facts, proving the extent to which the Company has complied with and is observing all the terms, conditions and provisions of this By-Law and those contained in the said covenant, and on neglect of the said Company to furnish such declaration it shall be prima facie taken that such terms, conditions and provisions have not been performed, observed and kept.

10. Forthwith after the final passing of this By-Law the Mayor and Clerk of the City of Peterborough are authorized and directed to execute and affix the Corporate Seal to and to deliver to the said Company an agreement in accordance with the terms of this By-Law upon the said Company contemporaneously executing under its Corporate Seal and the hands of its duly authorized officials in that behalf and delivering to the said City a counterpart or duplicate of the said agreement.

11. The votes of the electors of the City of Peterborough qualified to vote upon by-laws for creating debts shall be taken upon this By-Law on the first day of June, 1909, commencing at the hour of nine o'clock in the forenoon and closing at the hour of five o'clock in the afternoon of the same day, at the following places and before the following Deputy Returning Officers with the following Poll Clerks, that is to say:—

Polling Sub-division Nos. 1 and 2—Place, B. McGill's grocery, corner Aylmer and Lake streets. Deputy Returning Officer, Josiah Robertson. Poll Clerk, W. VanEvery.

Polling Sub-division No. 3—Place, L. Spry's, 210 Stewart street. Deputy Returning Officer, F. J. A. Hall. Poll Clerk, John Comstock.

Polling Sub-division Nos. 4, 5 and 6—Place, the City Council Chambers. Deputy Returning Officer, Angus McIntosh. Poll Clerk, J. P. Bryson.

Polling Sub-division Nos. 7 and 8—Place, A. J. Warne's, 356 Charlotte street. Deputy Returning Officer, J. M. Greene. Poll Clerk, Henry Greene.

Polling Sub-division No. 9—Place, N. Routly's, 392 Brock street. Deputy Returning Officer, John Sawers, Poll Clerk, N. Routly.

Polling Sub-division Nos. 10 and 11—Place, Mrs. Mann's store, 601 George street. Deputy Returning Officer, A. Sawers. Poll Clerk, G. H. Howson.

Polling Sub-division No. 12—Place, Mrs. Wm. Lee's shop, Smith street. Deputy Returning Officer, T. W. Robinson. Poll Clerk, J. H. Metherral.

Polling Sub-division Nos. 13 and 14—Place, the former Village Hall. Deputy Returning Officer, John Malane. Poll Clerk, Robert Hamilton.

7. The 2nd day of June, 1909, at the hour of twelve o'clock noon and the City Clerk's Office are hereby fixed as the time when and the place where the Clerk will sum up the number of votes given for and against the By-Law.

8. The 31st day of May, 1909, at the hour of twelve o'clock noon and the office of the City Clerk are hereby fixed as the time and place for the appointment of persons to attend at the various polling places and at the final summing up of the votes by the Clerk respectively, on behalf of the persons interested in and promoting or opposing the passing of the By-Law respectively.

Mayor.

Clerk.

SCHEDULE "B."

BY-LAW No. 1482.

A By-law to amend the By-law to aid The Colonial Weaving Company (Limited).

Passed the fourth day of October, 1909.

Whereas by Section 31 of Chapter 104 of the Statutes of the Province of Ontario passed in the eighth year of the reign of His Majesty King Edward the Seventh, By-law No. 1334 of the Corporation of the City of Peterborough passed on the 29th day of July, 1907, intituled "A By-law to aid The Colonial Weaving Company (Limited)" was confirmed, and it was provided by said

section

section that the said Corporation might amend clauses a, b, c and d of section 4 and section 5 of said By-law by changing the dates therein mentioned from 1908 to 1909, but the same has not been amended and the said Company has represented to the Council of the said City that owing to the stringency in the money market it has been impossible for the said Company to erect the buildings, instal the machinery and commence operations within the time limited in said By-law or within the time to which the same might be extended under the provisions of said section 31 of said chapter 104, and has also represented that the size of the buildings in said By-law mentioned is not suitable for the purposes of the said Company and that the number of hands to be employed therein should be reduced and has requested the Council of the said City to pass a By-law to amend said By-law No. 1334 accordingly and the said Council has agreed thereto on the conditions herein mentioned.

The Corporation of the City of Peterborough by the Council thereof therefore enacts as follows:

1. This By-law shall take effect upon and only upon the confirmation thereof by the Legislature of the Province of Ontario and upon the deposit by the said Company with the City Treasurer of the sum of \$200 to be forfeited to the Corporation in the event of the Company failing to carry out the terms of the said By-law No. 1334 as amended by this By-law, but to be returned to the said Company if it should erect by the first day of June, 1910, the buildings of the character in said By-law No. 1334 described, at least 100 feet by 50 feet in size on the land in said By-law mentioned.

2. Clauses a, b, c and d of section 4 and section 5 of said By-law No. 1334 are amended by striking out the figures 1908 wherever they occur in said clauses and section and substituting the figures 1910 instead thereof.

3. Clause a. of said section 4 of said By-law is further amended by striking out the word "sixty" therein and substituting the word "fifty" instead thereof.

4. Clause c. of said section 4 of said By-law is further amended by striking out the word "sixty" therein and substituting the word "fifty" instead thereof.

5. The said By-law is further amended by inserting after section 5 the following section:—

"5 (a). Provided that until the first day of June 1913 it shall be a sufficient compliance with the terms of clauses (c) and (d) of section 4 and section 5 if the said Company shall have in its employment in said manufacturing business an average of fifty hands for not less than a period of ten months in each year instead of sixty hands as in said clauses and section mentioned, but on and after the said first day of June, 1913, this section shall cease to be in force or effect and shall become abrogated and the conveyance in said clause (d) mentioned may be altered to conform to the terms and conditions of this section."

Sgd. H. RUSH,

Mayor.

Sgd. S. R. ARMSTRONG,

Clerk.

SCHEDULE "C."

BY-LAW No. 1491.

A By-law to fix the assessment of The William Hamilton Company, Limited.

Passed the 6th day of December, 1909.

Whereas The William Hamilton Company, Limited, has represented to the Council of the City of Peterborough that the business of the said Company as manufacturers of engines,

boilers

boilers, mill machinery, etc., has been carried on in Peterborough by the said Company and its predecessors for many years, and during that time the owners of the said business have received no advantages from the Municipality, by way of reduced taxes or bonus, and that the said Company is the only manufacturing concern in the said City in its own particular line, and has to compete with manufacturers in other places, who have received and are now enjoying Municipal assistance by way of exemption from taxes or fixed assessment and other advantages, making it difficult for the said Company to meet such competition, and has applied to the said Council for a fixed assessment on the real estate and plant of the said Company in the City of Peterborough, and the said Council has agreed thereto, and to pass a by-law for that purpose subject to the confirmation thereof by the Legislature.

The Corporation of the City of Peterborough by the Council thereof, therefore enacts as follows:

1. This By-law shall take effect upon and only upon the confirmation thereof by the Legislature of the Province of Ontario and upon the William Hamilton Company, Limited, agreeing not to oppose the construction of any sewers or sidewalks as local improvements abutting or fronting on the property in section 2 hereof mentioned or any part thereof, that the said Council may desire to construct under the provisions of The Municipal Act relating to local improvements.

2. The assessment of the following lands in the City of Peterborough owned, occupied and used by the said The William Hamilton Company, Limited, and being:

First—That part of Lot Number Sixteen, south of Murray Street and west of George Street more particularly described as follows: Commencing at the north-east angle of said lot—thence westerly along the northern limit of said lot one hundred and eight feet and eight inches—thence southerly at right angles to the said northern limit forty-six feet and six inches—thence easterly parallel to the northern limit of said lot one hundred and eight feet and eight inches more or less to the eastern limit of said lot—thence northerly along said eastern limit forty-six feet and six inches more or less to the place of beginning.

Secondly—That part of lot number thirteen north of Murray Street and west of George Street, more particularly described as follows: Commencing at a point in the eastern limit of said lot where the south side of the creek intersects the same—thence northerly along the said eastern limit fifty-five feet more or less to the north side of said creek—thence westerly along said creek to Rubidge Street—thence southerly along Rubidge Street ninety-three feet more or less to the south side of said creek and thence easterly along said creek to the place of beginning.

Thirdly—All that part of lot number fourteen north of Murray Street and west of George Street lying south of a line drawn from west to east, twenty feet south of the centre of the main line of the Midland Railway Track.

Fourthly—All lot number fifteen, north of Murray Street and west of George Street.

Fifthly—All that part of lot number fifteen, south of McDonnell Street and west of George Street, lying south of a line drawn from west to east twenty feet south of the centre of the main line of the Midland railway track.

Sixthly—Lots numbers sixteen and seventeen north of Murray Street and west of George Street.

Seventhly

Seventhly—All those parts of lots numbers sixteen and seventeen, south of McDonnel Street and west of George Street, lying south of a line drawn from east to west, twenty feet south of the centre of the main line of Midland railway track.

Eighthly—That part of lot number eighteen, north of Murray Street and west of George Street, more particularly described as follows: Commencing at a point on the west side of Downie Street where the south side of the creek intersects the same—thence westerly along said creek to the western limit of said lot—thence northerly along said western limit, forty-seven feet more or less to the northern limit of said lot—thence easterly along said northern limit of said lot to Downie Street and thence southerly along Downie Street, one hundred and fifty-three feet more or less to the place of beginning.

Ninthly—That part of lot number eighteen south of McDonnel Street and west of George Street, more particularly described as follows: Commencing at a point in the western limit of said lot, one hundred and thirty-two feet distant southerly from McDonnel Street—thence southerly along said western limit, sixty-eight feet more or less to the southern limit of said lot—thence easterly along said southern limit to Downie Street—thence northerly along said Downie Street sixty-eight feet more or less to a point one hundred and thirty-two feet from McDonnel Street, and thence westerly parallel with the southern limit of said lot to the place of beginning, together with an allowance for road nine feet wide, more particularly described in Registered Instrument Number 1737 for the Town of Peterborough. And that part of Downie Street extending from Murray Street northward to the line of the Grand Trunk Railway, and the north forty-six feet of Murray between Reid Street and Downie Street, while used exclusively for manufacturing purposes, or the part so used for manufacturing purposes, and the buildings, plant, machinery and fixtures thereon, and the business assessment thereof on which taxes are to be levied, shall be fixed and remain fixed while the same are so used and while at least an average of seventy-five hands are employed therein for at least ten months of each year, at the sum of \$10,000 for a period of ten years from the first day of January, 1910, and the return and oath of the assessor or assessors in respect thereof, shall be amended accordingly, but the same shall for school purposes be and remain liable to assessment and the payment of school taxes and rates to as full an extent as if this by-law had not been passed and the assessment for school purposes and the school rates and taxes shall be made, levied and collected thereon in accordance with the provisions of the general law in that behalf and the said lands shall also be liable for all frontage and local improvement assessment, rates and taxes that are now or may hereafter be charged against the same, and any dwellings erected on the said lands and the land appurtenant to any said dwellings shall not be included in the fixed assessment hereunder, but such dwellings and land, while used as such, shall be assessed as provided by the Assessment Act then in force; provided however that if the said The William Hamilton Company, Limited, shall at any time within the said term of ten years fail or neglect to operate and carry on the said manufacturing establishment, and therein to employ at least an average of seventy-five hands during at least ten months in each year, then such fixed assessment shall cease, and the taxes and rates on the said lands, buildings, plant, machinery and fixtures and on the business assessment thereof shall be and become payable to the same amount and in the same manner as if this By-law had not been passed; provided always that if the failure to carry on the said business is due to strikes or destruction of the buildings, plant, machinery or fixtures by fire or tempest the time during which the said business shall so cease to be carried on in consequence of such strikes or destruction of the buildings, plant,

machinery

machinery or fixtures (not exceeding in either case one year) shall not be taken as a failure or neglect to carry on the said business, so as to disentitle the said Company to such fixed assessment.

3. The said The William Hamilton Company, Limited, shall, prior to the first day of March in each year, file with the City Clerk, a statutory declaration, made by an officer of the Company, who shall therein state his knowledge of the facts, proving that the said Company has complied with and is observing all the terms, conditions and provisions of this By-law, and on neglect of the said Company to furnish such declaration it shall be prima facie taken that such terms, conditions and provisions have not been performed, observed and kept, and the said fixed assessment shall cease, and the taxes and rates shall be and become payable to the same amount and in the same manner as if this By-law had not been passed.

Sgd. H. RUSH,

Mayor.

Sgd. S. R. ARMSTRONG,

Clerk.

CHAPTER 124.

An Act respecting the City of Port Arthur.

Assented to 19th March, 1910.

W HEREAS the Municipal Corporation of the City of Preamble.

Port Arthur, has by petition represented that it is in the public interest that the Railway, Marine and General Hospital, Port Arthur, be authorized to issue bonds to the extent of \$35,000, which the City of Port Arthur was authorized to guarantee by section 1 of the Act passed in the 9th year of His Majesty's reign, Chaptered 118; that the by-laws specified in Schedule "A" hereto have all been submitted to and received the assent of the qualified ratepayers and it is desirable that they should be validated and confirmed in order that the debentures may be readily and profitably disposed of; that By-law No. 348 set out as Schedule "B" hereto intituled "By-law respecting certain aid to the Western Drydock and Shipbuilding Company, Limited, and to authorize in connection therewith an agreement with that Company," was on the 10th day of August, 1909, submitted to the qualified ratepayers, 843 voting for and 47 against the said by-law, and it is desirable that it should also be confirmed; and whereas the said Corporation has further represented that all tax sales and deeds held and given prior to the passing of this Act should be confirmed, and that section 11 of the Act passed in the 5th year of His Majesty's reign, Chaptered 69, should be amended so as to make the debentures issued thereunder for making connections with sewers and water mains payable in 15 years instead of 10 years; and whereas it has been further represented that the Council should have entire control and management of all the public utilities of said City; and whereas the said Corporation has prayed that an Act may be passed for such purpose; and whereas it is expedient to grant the prayer of the said petition;

Therefore

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Issue of
bonds by
Railway,
Marine and
General Hos-
pital Board.

1.—(1) The Railway, Marine and General Hospital, Port Arthur, shall be deemed to have, at all times since its incorporation, power from time to time to issue Bonds, whether secured by mortgage on the property of the Hospital or not so secured, and it is now empowered to issue Bonds to the amount of \$35,000.00 bearing interest at the rate of Five per cent per annum, payable half yearly; the principal being payable within thirty years from their date.

(2) Such Bonds may be validly executed by the President and Secretary of the Board of Trustees, and shall have the corporate seal of such Board affixed thereto, and the mortgage from the Board of Trustees to the Corporation of the City of Port Arthur on the real property of the said Hospital, dated 9th June, 1909, and registered in the Registry Office for the District of Thunder Bay, on 14th June, 1909, is hereby confirmed and declared legal, valid and binding.

(3) It is further declared that By-law No. 231 of the said City is legal, valid and binding, and that the guarantee by the Corporation of the said City under such By-law of the Bonds of the said Hospital to the amount of \$35,000.00 shall be valid and binding on the said corporation.

By-laws in
Schedule "A"
confirmed.

2. The By-laws specified in Schedule "A" hereto and all debentures issued or to be issued thereunder and all rates levied or to be levied for the payment of the said debentures are ratified and confirmed and declared to be legal, valid and binding upon the said Municipal Corporation and the ratepayers thereof.

By-law No.
348 and
agreement
with West-
ern Dry
Dock and
Shipbuilding
Company
confirmed.

3.—(1) Subject to the provisions of subsection 3, By-law No. 348, and the agreement dated the 19th day of May, 1909, made between the Western Dry Dock and Shipbuilding Company, Limited, and the Corporation of the City of Port Arthur, set out as Schedule "B" hereto, are ratified and confirmed, and declared legal, valid and binding upon the said Corporation and the ratepayers thereof.

Authority to
convey certain
lands to
company.

(2) Notwithstanding the provisions of Chapter 91, of the Acts passed in the 6th year of His Majesty's reign, or of any other Act, the Board of Park Management of the City of Port Arthur may convey to the said Corporation that portion

of water lot 5P lying in front of Mining Location 6, Herrick's survey (formerly in the Township of McGregor, but now in the City of Port Arthur), and the said Corporation may convey to the Western Dry Dock and Shipbuilding Company, Limited, in pursuance of By-law No. 348, and the said agreement of 19th May, 1909, therein referred to, the said portion of water lot 5P together with a sufficient quantity of the lands known as Strathcona Addition, and more particularly described in section 3 of the said Act, Chapter 91, to make in all 100 acres, and any conveyance of the said portion of water lot 5P, executed by the chairman and secretary of the said Board of Park Management, purporting to convey the same to the said Corporation, and any conveyance of the said portion of water lot 5P and said portion of the Strathcona Addition, executed by the mayor and clerk of the said Corporation, purporting to convey the same to the said Company, shall be legal, valid and binding for all purposes upon the said Board of Park Management and the said Corporation and the ratepayers thereof respectively, and on the execution of the said conveyances as aforesaid the said lands shall be vested in the said Company.

(3) Notwithstanding anything contained in the said by-law or agreement the lands and property of the said Company shall, for school purposes, be assessed and liable to taxation as though the said by-law had not been passed or the said agreement had not been made. Taxation for School Purposes

4.—(1) All sales of lands in the City of Port Arthur made prior to the 31st day of December, 1908, and which purport to be made by the Corporation of the said city for arrears of taxes in respect to lands so sold, are hereby validated and confirmed, and all deeds of lands so sold, executed by the Mayor and Treasurer of the said city purporting to convey the said lands so sold to the purchaser thereof, or his assigns, are hereby validated and confirmed and shall have the effect of vesting the lands so sold and conveyed or purported to be sold and conveyed, and the same are hereby vested in the purchaser or his assigns and his and their heirs and assigns, in fee simple, free and clear of and from all right, title and interest whatsoever of the owners thereof at the time of such sale or their assigns and of all charges and encumbrances thereon, except taxes accrued since those for non-payment whereof the said lands were sold. Tax sales and deeds confirmed.

(2) Subsection 1 of this section shall extend and apply to cases where the said city or anyone in trust for it or on its behalf became the purchaser of the lands.

(3)

(3) Nothing in this section contained shall affect any action, litigation or other proceeding now pending, but the same may be proceeded with and finally adjudicated upon in the same manner and to the same extent as if this section had not been passed.

Paragraph 11
of cap. 69 of
5 Edw. VII.
amended.

5. Section 11 of the Act passed in the 5th year of His Majesty's reign, Chaptered 69, is amended by striking out the word "Ten," in the eleventh line thereof, and inserting in lieu thereof the word "Fifteen."

By-law
appointing
Electric Rail-
way and Light
Commissioners
repealed.

6. The Council of the said City may by by-law repeal the by-law providing for the election of three commissioners known as the Electric Railway and Light Commission, and abolish said commission, and from and after the repeal of such by-law such commission shall cease to exist, and thereafter the Council of the said City shall possess all the powers and perform all the duties theretofore conferred or imposed on the said commission.

Appointment
of Commis-
sioner of
Public
Utilities.

7.—(1) The Council of the said Corporation may appoint an officer to be called "Commissioner of Public Utilities," and may define his powers and duties and fix and pay him a salary not exceeding \$5,000 a year.

(2) Such Commissioner shall hold office for such period not exceeding five years as may be agreed on between him and the said Corporation but may be dismissed by the said Council on sufficient cause being shewn to the Chairman of "The Ontario Railway and Municipal Board" to justify dismissal.

SCHEDULE A.

No. of By-law.	Nature of Work under By-law.	When Passed by Council.	Total Cost of Work.	Amount to be borne by Ratepayers.	Period of Payment.	Interest.
338	By-law to purchase the Bell Telephone Company plant in the City of Port Arthur, and to issue debentures therefor	August 16, 1909	\$3,500 00	\$3,500 00	20 years	4½% annual
339	By-law to authorize the issue of debentures for \$21,000, for extension of Telephone System	do.	21,000 00	21,000 00	15 years	
340	By-law to provide for the additional expense of double-tracking the Electric Street Railway for the City of Port Arthur from Current River to the southerly boundary of the said City	do.	1,284 00	1,284 00	30 years	4½% annual
341	By-law to enlarge the Storage Battery in connection with the Electric Street Railway System and to issue debentures therefor	do.	5,200 00	5,200 00	15 years	
342	By-law to purchase a Site for Civic purposes and to issue debentures therefor	do.	18,925 00	18,925 00	20 years	4½% annual
344	By-law providing for the construction of a system of Sewers and to issue debentures therefor	do.	31,120 00	22,356 00	30 years	4½% annual
345	By-law to raise the sum of \$8,615.00 for the purpose of acquiring certain lands for a Fair Site and to issue debentures therefor	do.	8,615 00	8,615 00	20 years	4½% annual
356	By-law to provide for the erection of a Publicity Office on Reserve "A" and to issue debentures therefor	do.	2,500 00	2,500 00	20 years	5% annual
357	By-law to provide for repairing the Fort William Road from John Street westerly to the Fort William Boundary, and the construction of a Bridge on said road across the McIntyre River, at an estimated cost of \$14,000, and to provide for the payment thereof and to issue debentures therefor	September 27, 1909	14,000 00	14,000 00	20 years	5% annual
358	By-law to authorize the purchase of machinery and fittings for the new Car Barn and for the Storage Battery already installed and to issue debentures therefor.	do.	22,000 00	22,000 00	15 years	

No. of By-law.	Nature of Work under By-law.	When Passed by Council.	Total Cost of Work.	Amount to be borne by Ratepayers.	Period of Payment.	Interest.
359	By-law to authorize the purchase of a Motor Generator for the Electric Street Railway System, and to issue debentures therefor	September 21, 1909	\$7,500 00	\$7,500 00	15 years	annual
360	By-law to provide for the erection of a City Storehouse, and to issue debentures therefor	do.	3,500 00	3,500 00	20 years	5%
362	By-law to provide for the purchase of land to widen certain portions of Arthur and Bay Street, and to issue debentures for the cost thereof	September 21, 1909	3,300 00	3,300 00	20 years	5%
363	By-law to provide for the extension and grading of Cumberland Street easterly through Current River Park and the Strathcona addition to the proposed Dry Dock and Shipbuilding Site, and to erect a Bridge over Current River on the course of such extension, and to issue debentures therefor	do.	30,000 00	30,000 00	20 years	5%
368	By-law to authorize the Council to enter into the agreement hereto attached with J. J. Carrick, to provide for the extension of the Street Railway in pursuance thereof, and to issue debentures therefor	November 15, 1909	3,000 00	3,000 00	15 years	annual
394	By-law to authorize the purchase for the City of Port Arthur of Copper Wire and material necessary for the transmission of Power from the Kaministiquia Power Co., and for the cost of the installation of same and to issue debentures therefor	January 13, 1910	12,000 00	12,000 00	15 years	annual

SCHEDULE "B."

BY-LAW NO. 348.

By-law respecting certain aid to the Western Dry-dock and Shipbuilding Company, Limited, and to authorize in connection therewith an agreement with that company.

Whereas the Corporation of the City of Port Arthur purposes to enter into the agreement hereto annexed with the Western Dry-dock and Shipbuilding Company, Limited, and it is expedient to make provision for the carrying out of the terms thereof.

And whereas it will require the sum of \$25,000.00 to be raised annually by special rate on the whole rateable property of the said City of Port Arthur for the payment of the said sum of \$25,000.00 as same may mature under the said agreement.

And whereas the amount of the whole rateable property of the said City of Port Arthur according to the last revised assessment roll is \$11,538,643.00, of which \$4,549,380.00 is wholly exempt from taxation and \$500,000.00 is exempt except for school taxes.

And whereas the amount of the existing debenture debt of the said Corporation of the City of Port Arthur is \$2,031,340.50, exclusive of local improvement debts secured by special Acts, rates or assessments and there is no part of the principal or interest in arrear.

And whereas it is necessary to authorize the Council of the said Corporation of the City of Port Arthur to enter into said agreement if such be the will of the ratepayers.

Therefore the Council of the Corporation of the City of Port Arthur enacts as follows:

1.—The Corporation of the City of Port Arthur may enter into the said agreements and execute the same under the seal of the Corporation and may carry out their terms and do all things necessary therefor.

2.—For the purpose of paying the said debt hereby created, namely \$25,000.00 per annum, when and as same matures and falls due under the said agreement, the sum of \$25,000.00 shall be raised, levied and collected in each year, as required to be paid, from the whole rateable property of the said City of Port Arthur by an equal special rate in addition to all other rates during the currency of said agreement.

3.—The said Corporation shall apply to the Legislature of the Province of Ontario for an Act validating and confirming this agreement and empowering the said City to make the said grant of 100 acres out of the Strathcona Addition for the site for the said Dry-dock and Shipbuilding Yard, pursuant to the terms of the said agreement.

4.—All the property of the Company shall be exempt for 20 years, commencing from the date when this by-law comes into force, from taxation, except local improvements and school taxes, and which school taxes shall be fixed at \$2,000 per year for the said term of 20 years.

5.—This by-law shall take effect on the day of the final passing thereof.

6.—The votes of the electors of the said City of Port Arthur shall be taken on this by-law at the following times and places, that is to say, on Tuesday, the 10th day of August, 1909, commencing at the hour of nine o'clock in the forenoon and continuing till five o'clock in the afternoon of the same day, by the following deputy returning officers:

Polling subdivision No. 1, Ward 1.—At Reading Room in Municipal Building on Arthur Street by W. A. McCallum as deputy returning officer and John Benn as poll clerk.

Polling subdivision No. 2, Ward 1.—At the old Council Chamber on Park Street, by J. H. Johnson as deputy returning officer and Arthur McCallum as poll clerk.

Polling subdivision No. 1, Ward 2.—At Lot 12, east side of Cumberland Street, by Albert Bonin, as deputy returning officer, and Albert Servais as poll clerk.

Polling subdivision No. 2, Ward 2.—At Lots 1 and 2 of Lot 5 North John Street, at south-west corner of Algoma and Cornwall Avenue, by F. Thynne as deputy returning officer and Willie Anderson as poll clerk.

Polling

Polling subdivision No. 1, Ward 3.—At Mr. A. L. Russell's office on the north side of Cameron Street, by Fred Jones as deputy returning officer, and I. D. Denison as poll clerk.

Polling subdivision No. 2, Ward 3.—At Lot 22, Block "C", McVicar Addition, by Geo. H. Rapsey as deputy returning officer, and J. R. Wishart as poll clerk.

7.—On the 5th day of August, 1909, at his office in the Council Chamber on Arthur Street, in the City of Port Arthur, at ten o'clock in the forenoon, the Mayor shall, in writing signed by him, appoint two persons to attend at the final summing up of the votes by the Clerk of this Corporation, and one person to attend each polling place on behalf of the persons interested in and desirous of promoting the passing of this by-law, and a like number on behalf of the persons interested in and desirous of opposing the passing of this by-law respectively.

8.—The 11th day of August, 1909, at the Council Chamber aforesaid, at 12 o'clock noon, is hereby appointed for the summing up by the Clerk of this Corporation of the number of votes given for and against this by-law respectively.

Council Chamber, Port Arthur, 16th day of August, 1909.

(Sgd.) J. L. MATTHEWS,
Mayor.

J. McTEIGUE,
Clerk.

Memorandum of Agreement, and entered into this 19th day of May, A.D. 1909.

By and Between:—

The Western Dry-dock and Shipbuilding Company, Limited,
hereinafter called the "Company" of the First Part,
and

The Corporation of the City of Port Arthur, hereinafter called the "City" of the Second Part.

Witnesseth that the said parties hereto do hereby in consideration of the mutual covenants and agreements hereinafter contained, covenant and agree each with the other of them as follows:

1. The Company shall and will build, equip, instal and operate on the property hereinafter mentioned in the City of Port Arthur, a dry-dock capable of receiving and handling the largest vessels plying on the Great Lakes and a shipbuilding plant capable of building and equipping such vessels.

2. The said work shall be begun by the Company within two months from the final passing of a by-law authorizing the City to enter into this agreement, or from date of ratification of by-law by Provincial Legislature in case such action is necessary, and the whole of the dry-dock and shipbuilding plant shall be ready for operation on the first of September, 1911.

3. The Company shall employ in the operation of the said Dry-dock and Shipbuilding Plant at least three hundred men.

4. The City shall provide free of cost to the Company a site acceptable to the Company for the said works consisting of one hundred acres of the Strathcona property now owned by the City, together with a suitable water frontage on Thunder Bay connected with it.

5. All the property of the Company shall be exempt for twenty years, commencing from the date hereof, from taxation, excepting only school taxes, which school taxes shall be fixed at \$2,000.00 per year for the said term of twenty years.

6. (a) In computing the subsidy hereinafter referred to each three hundred days of labour in the operation of the said works shall be equivalent to employment of one man for one year.

(b) For the first ten years of the Company's operations as aforesaid the City shall pay to the Company a cash subsidy of \$25,000.00 per year, provided that the Company employs at least three hundred men yearly.

(c) If, during any year, less than three hundred men are employed in the operation of said works by the Company the City shall pay to the Company by way of subsidy only such part of the said subsidy

subsidy of \$25,000.00 bearing the same proportion to the whole thereof as the number of men actually employed by the Company shall bear to three hundred.

(d) If the whole subsidy of \$25,000.00 is not earned by the Company in any one year, the unearned portion thereof may be earned by the Company in any prior or subsequent year or years by the number of men employed by it in excess of three hundred for such year or years.

(e) If during the first ten years of the Company's operations as aforesaid the whole of the said annual subsidies shall not have been earned by the Company, the unearned portion or portions of such subsidies (to the extent of \$25,000.00 per year only) may be earned by the Company in the first five years following said term of ten years, but in the computation of the amount earned by the Company, during the said five years of said unearned subsidy, the total number of employees of the Company shall be computed, and not only those over three hundred.

(f) The said annual subsidy shall only be payable in respect of the actual operation of the said work by the Company and shall not be applicable to the work of erection and installation of the said works and plant.

7. The City will build or procure the Government of Canada to build adequate breakwater protection to the Company's property. In event of the permanent breakwater not providing the necessary protection upon completion of the dry-dock the City of Port Arthur agrees to provide temporary protection until such time as the permanent structure is completed. And if the Company shall be unable to operate or shall be unable to complete these works by reason of the want of the temporary or permanent protection aforesaid, so that the said Company is unable to earn the said subsidy then the said subsidy shall become due and payable to the Company in the same manner as if the said delay had not occurred.

8. If the works to be built and operated by the Company on the property to be provided by the City as aforesaid shall be closed down and remain idle at any time for a term of five consecutive years, the Company agrees to pay \$100.00 per acre to the City for the site it provides.

9. This agreement is valid only upon its being ratified by the Board of Aldermen and the ratepayers of the City of Port Arthur.

In witness whereof the said parties hereto have caused to be hereunto affixed their Corporate Seals under the hands of their proper officers.

Signed, sealed and delivered in the presence of

(Sgd.) E. J. MORRISON,
The Western Dry-dock and Shipbuilding Company, Limited

(Sgd.) JAS. H. SPENCE,
President.

(Sgd.) L. M. NEAL,
Secretary.

(Sgd.) J. L. MATTHEWS,
Mayor of the City of Port Arthur.

(Sgd.) J. L. MATTHEWS,
Mayor.

(Sgd.) J. McTEIGUE,
Clerk.

CHAPTER 125.

An Act respecting the Town of Port Hope.

Assented to 7th March, 1910.

Preamble.

WHEREAS the Corporation of the Town of Port Hope has by its petition represented that on account of the extent and number of sidewalks, roads and bridges in said Town and the large and rapidly increasing annual expenditure entailed upon the Municipality in replacing, repairing and maintaining the same, it has become very difficult and beyond the means of the Municipality to meet such expenditure out of the annual taxation and that it is a general desire on the part of the citizens of said Town to forthwith replace the existing wooden walks with permanent cement walks and to construct macadam roadways and pavements and to issue debentures therefor; and whereas the said Corporation has petitioned to be authorized to raise by the issue of debentures from time to time such sums of money not exceeding Twenty-five Thousand Dollars in the whole as shall be necessary for the purposes aforesaid; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Authority to
borrow
\$25,000.

1. It shall be lawful for the Corporation of the said Town of Port Hope to issue debentures under the Corporate Seal, signed by the Mayor and countersigned by the Treasurer of the said Town for the time being for such sums not exceeding \$25,000 in the whole as the said Corporation may from time to time direct and to raise by way of loan upon the credit of the said debentures a sum not exceeding in the whole \$25,000.

Assent of
ratepayers
required.

2. Such debentures shall be issued from time to time as the Council of the said Corporation shall by by-law provide and determine, but no such by-law or by-laws shall be finally

passed

passed until the assent of the ratepayers qualified to vote on money by-laws has been obtained thereto in accordance with the provisions of *The Consolidated Municipal Act, 1903*, and any Act or Acts amending the same.

3. The debentures authorized by this Act shall be in such sums, not less than \$100 each, as the Council of the said Corporation may direct and may be made payable in any period not more than thirty years from the date of the issue thereof.

Period of
payment.

4. The said debentures shall bear interest at a rate not exceeding five per cent. per annum, payable half-yearly and shall have coupons attached thereto for the interest and shall be payable at such place or places as the Council of the said Corporation may deem expedient.

Interest and
coupons.

5. Every debt incurred under this Act shall be payable in equal annual instalments of principal and interest in such manner and in such amounts that the total amount payable for principal and interest in any year shall be equal as nearly as may be to the total amount payable in each of the other years of the period within which the debt is to be paid.

Equal instal-
ments of
principal and
interest.

6. The said Corporation shall levy in each year during the period within which such debt is payable in addition to all other rates and assessments, a special rate sufficient to produce and pay the instalment of principal and interest falling due in respect of such debt during the year.

Special rate.

7. All moneys raised under the authority of this Act shall be applied by the Council of the said Corporation in the construction of cement walks, macadam roadways and pavements and for the purchase of materials, machinery and plant necessary therefor and for no other purpose whatsoever.

Application of
proceeds of
debentures.

8. It shall be the duty of the Treasurer for the time being, of the said Town, to keep, and it shall be the duty of each of the members from time to time of the said Municipal Council to procure such Treasurer to keep, and see that he does keep, a proper book of account, setting forth a full and particular statement, so that the same shall at all times show the number of debentures which from time to time shall be issued under the powers conferred by this Act, and the respective amounts, payment of which is thereby secured, and the times at which the said debentures shall respectively become due and payable, and the several amounts which shall, from time to time, be realized upon the sale or negotiation of the said debentures, and the application which shall,

Treasurer to
keep separate
book of
account.

from

from time to time, be made of the said amounts; and the said book of account and statement shall at all times, and at all reasonable hours, be open to the inspection of any rate-payer of the said Town, and of any of the holders, from time to time, of the debentures which shall be issued under the powers hereby conferred or any of such debentures.

Inconsistent
enactments
not to apply.
Irregularity in
form not to
invalidate.

9. Any provisions in the Acts respecting municipal institutions in the Province of Ontario, or any of them, which are or may be inconsistent with the provisions of this Act, shall not apply to any by-law or by-laws passed by the said Corporation under the provisions of this Act; and no irregularity in the form of the debentures or any of them authorized to be issued by this Act or in the form or passing of the by-law or by-laws authorizing the issue thereof, shall render the same invalid or illegal, or be allowed as a defence to any action brought against the said Corporation for the recovery of the amount of said debentures or interest or any or either of them, or any part thereof; and the purchasers or holders of said debentures or any of them shall not be bound to enquire as to the necessity of passing any such by-law or issuing such debentures, or as to the application of the proceeds of the same or any part thereof.

CHAPTER 126.

An Act to confirm By-Law No. 2,106 of the City of St. Catharines.

Assented to 7th March, 1910.

WHEREAS the Canadian-Crocker-Wheeler Company, Preamble. Limited, have purchased from the Corporation of the City of St. Catharines, certain premises for the sum of \$5,000.00, and have entered into an agreement dated November 22nd, 1909, with the Corporation to employ a large number of operatives and workmen and to pay large sums of money in wages; and whereas on the twenty-second day of November, 1909, the Municipal Council of the City of St. Catharines, deeming it greatly to the advantage of the Municipality, passed a By-law, numbered 2,106, exempting the plant and buildings of the said The Canadian-Crocker-Wheeler Company, Limited, to the extent and amount of all the assessed value thereof over the sum of \$10,000.00 from Municipal taxation for a period of ten years; and whereas, relying upon such By-law and Agreement, the said The Canadian-Crocker-Wheeler Company, Limited, have purchased the said premises in said City, and have proceeded with the equipment and installation of their plant and machinery; and whereas the construction and operation of the said plant is greatly in the interest of the ratepayers and citizens generally of the said Municipality; and whereas the Municipal Corporation of the City of St. Catharines have petitioned, praying that an Act may be passed to ratify and confirm said By-law and Agreement; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subject to the provisions of section 3 By-law No. By-Law No. 2106 of 2106 of the Municipal Corporation of the City of St. City of St. Catharines confirmed. Catharines, set forth in Schedule "A" of this Act, and the Agreement in said By-law mentioned set forth in Schedule "B" of this Act, are confirmed and declared legal, valid and

binding

binding upon the said Municipal Corporation, and the rate-payers thereof, and all others mentioned in said By-law and Agreement and their assigns.

General
powers.

2. The said Corporation is hereby empowered to do all necessary acts for the full and proper carrying out of the said By-law and Agreement.

By-law to be
approved by
ratepayers.

3. The said By-law shall be submitted to and approved of by two-thirds of those voting of the qualified ratepayers in the manner provided by *The Consolidated Municipal Act, 1903*, except that publication of the By-law once a week for two successive weeks in a newspaper published in the said city shall be a sufficient compliance with the provisions of the said Act and the voting on the said By-law may be taken at any time after the expiration of two weeks from the date of the first publication thereof.

SCHEDULE "A"

BY-LAW No. 2.106.

A by-law to aid by way of bonus, The Canadian-Crocker-Wheeler Company, Limited, by partial exemption from Municipal taxation for a period of ten years.

Whereas, The Canadian-Crocker-Wheeler Company, Limited, hereinafter called "The Company" incorporated under the provisions of The Act of Parliament of Canada, known as "*The Companies Act*," being chapter 79 of The Revised Statutes of Canada, 1906, and duly licensed under *The Ontario Companies Act*, to carry on business in the Province of Ontario, purpose to establish and carry on in the City of St. Catharines, a business of manufacturing electrical machinery, and have agreed to purchase from the Corporation of the City of St. Catharines the lands and buildings in the said City known as "The Ross Factory Site," together with other lands adjacent thereto, and hereinafter more particularly described, for the purpose of carrying on the said manufacturing business thereon.

And Whereas, the said Company has applied to the Corporation of the City of St. Catharines, hereinafter called "The Corporation," for aid by way of bonus, to the extent and in the manner following, that is to say:

The partial exemption from Municipal taxation of the lands and buildings and property of the Company, for a period of ten years.

And Whereas, the Company has agreed to alter and adapt the buildings on the said site, and to erect such additions as may be necessary and to install the machinery necessary and required for its said manufacturing business, and to commence such alterations, additions and installation within one month from the execution of the Agreement hereinafter mentioned, and will at the earliest practicable date, begin manufacturing upon the said premises. but nothing in this covenant shall be held to bind the Company to be in complete operation before the 31st day of December, 1910.

- And Whereas, the Company has also agreed that from and after the completion of the said alterations and additions and of the installation of the said plant and machinery as aforesaid they will continuously

continuously carry on, on the said site, the business of manufacturing electrical machinery for and during a period of ten years, *save and except*, as in the agreement between the Company and the Corporation hereinafter referred to, is provided, and will continuously employ in its said business, during the said period of ten years, not less than one hundred workmen and operatives in the conduct and operation of its said business, and will in each of the years of the said period pay in wages to its workmen, operatives and employees engaged in the operations of the said Company in the City of St. Catharines, not less than Fifty Thousand Dollars.

And Whereas, the owners of the Packard Electric Company, Limited, an industry already established in the City of St. Catharines of a similar nature to that purposed to be carried on by the Company, have given their consent in writing to the granting of such partial exemption from Municipal taxation.

And Whereas, it is deemed expedient to grant the said aid by way of bonus, in the manner and for the purpose aforesaid. Therefore the Council of the Corporation of the City of St. Catharines, enacts as follows:

1. That it shall, and may be, lawful for the Corporation to convey to the Company for the price or sum of Five Thousand Dollars, the following lands and premises: *All and singular*, the following parcels or tracts of lands and premises described as follows:

Firstly. All and singular those certain parcels or tracts of land and premises situate, lying and being in the City of St. Catharines, in the County of Lincoln, containing by admeasurement six acres, and two-thirds of an acre of land more or less, and being composed of part of lot number eighteen in the fifth Concession of the Township of Grantham, in the County of Lincoln, being more particularly known and described as follows:

Commencing at a point on the east side of George Street at the distance of four hundred and twenty-one feet, six inches on a course north one and three-quarter degrees east from its intersection with the limit between that parcel of land known as the Mitchell and McGivern Tract, and that known as the Stephenson Farm; thence north one and three-quarter degrees east on the east side of George Street, six hundred and twenty-six feet two inches; thence south eighty-eight and a quarter degrees east four hundred and sixty feet seven inches more or less to the Welland Railway Company's lands; thence in a south-easterly direction on the west limit of said Welland Railway Company's lands thirteen feet more or less until it is intersected by the limit between Township lots numbers seventeen and eighteen; thence south one degree and thirty-five minutes west six hundred and thirteen feet six inches more or less to within two hundred and four feet six inches of a stone planted at the south-east angle of the Stephenson Farm; thence north eighty-eight and a quarter degrees west four hundred and sixty-four feet more or less to the place of beginning, reserving therefrom sixty feet at the north end of the said land, for a street called Russell Avenue.

Secondly. All that piece of land in the said City of St. Catharines being part of lot number seventeen in the fifth Concession of the Township of Grantham, and being a small triangle lying to the west of the Welland Railway to the north of Daniel Street to the east of lands above described and to the south of Russell Avenue, except thirty feet thereof to the north of Daniel Street, *saving and excepting* thereout all land to the east of the west limit of Catherine Street, produced in a straight line to Russell Avenue.

Thirdly. All and singular that certain parcel or tract of land and premises situate, lying and being in the City of St. Catharines, in the County of Lincoln, containing by admeasurement three and one-third acres of land, being composed of part of lot number eighteen in the fifth Concession of the Township of Grantham, *commencing*

at

at a point on the east side of George Street at the distance of ninety-eight feet eight inches on a course north one and three-quarter degrees east from its intersection with the limit between that parcel of land known as the Mitchell and McGivern Tract, and that known as the Stephenson Farm; thence north one and three-quarter degrees east on the east side of George Street three hundred and twenty-two feet ten inches; thence south eighty-eight and a quarter degrees east four hundred and sixty-four feet more or less to the limit between Township lots numbers seventeen and eighteen; thence south one degree and thirty-nine minutes west two hundred and four feet six inches more or less to a stone planted at the south-east angle of the Stephenson Farm; thence south sixty-six degrees and forty-two minutes west forty-six feet five inches more or less to the west side of Catherine Street; thence south one and three-quarter degrees west on west side of Catherine Street ninety-eight feet eight inches; thence north eighty-eight and a quarter degrees west four hundred and twenty-two feet four inches more or less to the place of beginning, *save and except* that portion of the lands thirdly above described heretofore conveyed by the Corporation to J. T. Thompson, *et al*, by Deed, dated 21st February, 1905, and registered in the Registry Office for the County of Lincoln, on the 22nd day of March, 1905, as Number 9355, and *saving and excepting* thereout any portion of said described lands which is now embraced within the limit of Catherine Street.

Together with all the plant, tools, machinery and equipment owned by the Corporation, now contained in the buildings known as "The Ross Factory Buildings," situate on said lands. All said lands to be used by the Company for the purposes of its manufacturing business only, or of its successors and assigns.

2. That the lands, property, buildings, plant and machinery situate on the said site and connected with its manufacturing business, including business assessment, shall be partially exempt from Municipal taxation, *save and except* taxation for school purposes, local improvements, water rates and street watering for the period of ten years from the first day of January, 1910, to the following extent and amount, that is to say: All of the assessed value thereof over the sum of Ten Thousand Dollars.

3. That notwithstanding the partial exemption from taxation granted by the said by-law, the property of the Company shall during the said period of ten years, be annually assessed in the same manner as if such by-law had not been passed, and the taxes rated thereon shall be duly entered on the Collector's Roll for such City, but such taxes, *save and except* taxation for school rates, local improvements, water rates and street watering shall not be collected on any greater part of the said assessment than Ten Thousand Dollars, unless the Company shall have made default in the terms, provisoes and stipulations of the hereinafter mentioned agreement, in which case the whole of the taxes for the year in which such default shall happen, shall become due and payable and may be collected by the said Corporation as if the said by-law had not been passed.

4. That the Mayor and Clerk of the Corporation be, and they are hereby authorized to execute and deliver on behalf of the Corporation to the Company, a conveyance of the lands and property above described and further to execute and deliver on behalf of this Corporation the agreement mentioned in the next succeeding clause thereof.

5. That the partial exemption from taxation shall be subject to the terms, conditions and stipulations made and contained in a certain agreement bearing date the 22nd day of November, 1909, by and between the Company and the Corporation, a copy of which is hereto annexed.

This by-law shall not be valid or binding unless and until confirmed by an Act of the Legislative Assembly of the Province of Ontario.

Passed this 22nd day of November, 1909.

(Sgd.) J. S. CAMPBELL,

Mayor.

[SEAL]

(Sgd.) J. ALBERT PAY,
Clerk.

SCHEDULE "B"

THIS AGREEMENT made in duplicate this 22nd day of November, in the year of our Lord, one thousand nine hundred and nine,

BETWEEN:

The Canadian-Crocker-Wheeler Company, Limited, hereinafter called "The Company"

Of the First Part

AND

The Corporation of the City of St. Catharines, hereinafter called "The Corporation"

Of the Second Part

Whereas, the Company purposes to engage in the manufacture of electrical machinery on the site and premises in the City of St. Catharines, known as "The Ross Manufacturing Site," together with certain lands adjacent thereto, and has agreed to purchase from the Corporation such site and adjacent lands, and the plant, machinery, tools and equipment, the property of the Corporation, and now contained in the buildings on said lands, for the sum of Five Thousand Dollars (\$5,000.00).

And Whereas, the Company has applied to the Council of the Corporation for partial exemption of the property of the Company, including business assessment, from Municipal taxation *save and except* for school purposes, local improvements, water rates and street watering for a period of ten years from and including the first day of January, 1910, to the following extent and amount, that is to say:

Exemption of all the assessed value of said property, including business assessment, *save and except* taxation for school purposes, local improvements, water rates and street watering, over and above the sum of Ten Thousand Dollars. And a by-law authorizing the conveyance of said lands and property and granting said partial exemption from taxation, has this day been passed by said Council.

And Whereas, the Company, in consideration of the granting of said partial exemption, has agreed with the Corporation, that the Company will do and perform the several acts, matters and things and observe the several covenants, provisoes, and stipulations hereinafter in this agreement in full set out,

Now This Agreement being the agreement referred to in the said by-law, *witneseth*, that the Company and the Corporation mutually covenant and agree to and with each other in the manner following:

1. That the Company will within one month from the date hereof, begin the necessary alterations, improvements and additions in and to the buildings and manufacturing plant already in existence on the said site, and install the necessary plant and machinery and will at the earliest practicable date, begin manufacturing upon said premises,

mises, but nothing in this covenant shall bind the Company to be in complete operation before the 31st day of December, 1910.

2. That from and after the completion of the said alterations, improvements and additions, and the installation of the necessary plant and machinery, the Company will continuously carry on its manufacturing business, for and during a period of ten years, and will continuously employ not less than one hundred workmen or operatives, *save and except* for such periods of cessation or shutting down, not however, to exceed one month in each calendar year, as are ordinarily incident to the nature of such business, and also save and except for such periods of shutting down as shall be caused by strikes of the Company's workmen, said strikes not being caused by the unreasonable acts of the Company, its officers, or servants, and will in each year of the said period, pay in wages to its workmen, operatives and employees engaged in the operations of said Company in the City of St. Catharines, not less than Fifty Thousand Dollars, and for the purposes of this agreement the period above mentioned shall begin on the 1st day of January, 1910.

3. That the Company will, at all times during the said period of ten years, insure and keep insured its said factory and buildings, and its plant, machinery and fixtures, to their full insurable value, and if at any time during the said period of ten years, the said buildings, plant, machinery or fixtures shall be wholly or partially destroyed by fire, then, and in any such event, and when and so often as the said event shall happen, the Company will at once proceed to rebuild and restore or repair said buildings, plant, machinery and fixtures, so as to make the same suitable and available at the earliest reasonable time for the purposes of its said manufacturing business, and will, at the earliest reasonable time, resume the said manufacturing business on said site.

4. It is Agreed that in case of a fire, which shall render it impossible for the Company, for the time being, to continue its said manufacturing business, in any or all of the departments thereof, and when and so often as the said event shall happen, then, and in any such case, if the Company shall forthwith proceed to rebuild and restore the said building, plant and machinery to their former condition of efficiency for the purpose of resuming and carrying on its said manufacturing business at the earliest reasonable time, the Company shall be relieved *pro tanto* of its covenant as to payment of wages for the year of such period in which said fire may occur, and the amount of wages for said year shall be estimated proportionately for the portion of such year during which the Company's factory could have been operated.

5. It is Agreed that notwithstanding the partial exemption from taxation granted by the said by-law, the property of the Company shall, during the said period of ten years, be annually assessed in the same manner as if such by-law had not been passed and the taxes rated thereon shall be duly entered on the Collector's roll for such City, but such taxes, *save and except* taxation for school rates, local improvements, water rates and street watering, shall not be collected on any greater part of the said assessment than ten thousand dollars, unless the Company shall have made default in the terms, provisoes and stipulations of this agreement, in which case the whole of the taxes for the year in which such default shall happen, shall become due and payable and may be collected by the said Corporation as if the said by-law had not been passed.

6. It is Agreed that the auditors of the Corporation or any person or persons appointed by resolution of the Council for that purpose, shall at any time during the months of January and February in each year, have free access to the books of account, statements and pay rolls of the Company for the purpose of ascertaining the amount paid in wages during the year ending on the then preceding 31st day of December.

7. It is Agreed that the Corporation will support and approve of an application by the Company to the Legislative Assembly of the Province of Ontario at the next session thereof, for an Act to confirm and validate said by-law and this agreement, and that all fees and disbursements incident to the said application and all fees and disbursements and expenses incurred by the Corporation shall be paid by the Company.

8. The Corporation further agrees to facilitate by all means in its power, without expense to the Corporation, the obtaining by the Company of electric power of any frequency that the Company may require for the carrying on of its said business. The meaning of this clause being, that if any Company shall apply to the Corporation for the right or privilege of selling electric power in the City of St. Catharines of such kind or frequency as the Company may require in its said manufacturing business, the Corporation will grant such right or privilege to the Company so applying upon such reasonable terms as the Council of the Corporation may approve.

9. The Company agrees that during said period, it will carry on all its manufacturing business in Canada on said site, but nothing herein contained shall prevent the Company from establishing a branch for the manufacturing of its product west of Lake Superior for sale in the Provinces of Manitoba, Alberta, Saskatchewan and British Columbia.

In Witness Whereof the proper officer of the Company has set his hand and affixed the Corporate Seal, and the Mayor of the Corporation has set his hand and caused to be affixed the seal of the Corporation.

Signed, sealed and delivered in the presence of

(Sgd.) J. S. CAMPBELL,
Mayor.

(Sgd.) G. B. BURSON,

(Sgd.) JAMES B. MALCOMSON, (Sgd.) F. E. LOVELL,
President.

As to execution by the Mayor of the City of St. Catharines.

[SEAL.]

[SEAL.]

CHAPTER 127.

An Act to confirm By-Law No. 2,116
of the City of St. Catharines.*Assented to 19th March, 1910.***Preamble.**

WHEREAS The St. Catharines Woolen Mills, Limited, has purchased certain premises in the City of St. Catharines in which one James B. Dolan formerly carried on the business of Manufacturing Woolen Goods and has reopened the said business and intends to greatly increase the former output thereof; and whereas the Municipal Council of the said City deeming it greatly to the advantage of the said City passed a By-law, Numbered 2116, on the 20th day of December, 1909, exempting the plant and property of the said The St. Catharines Woolen Mills, Limited, from Municipal taxation to the extent of all of the assessed value thereof over and above the sum of Two Thousand Dollars (\$2,000.00) for a period of ten years from the First day of January, 1910; and whereas the said Company relying on the said By-law has commenced and is now carrying on the business of the Company; and whereas the operation of the said plant is greatly in the interest of the Ratepayers of the said City; and whereas the Municipal Council of the said City have petitioned praying that an Act may be passed validating and confirming the said By-law; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law No.
2116 of City
of St. Catharines con-
firmed.

1. Subject to the provisions of section 2, By-law Numbered 2116 of the Municipal Corporation of the City of St. Catharines set forth in Schedule "A" to this Act is hereby confirmed and declared legal, valid and binding.

2. The said By-law shall be submitted to and approved of by two-thirds of those voting of the qualified ratepayers in the manner provided by *The Consolidated Municipal Act, 1903*, except that publication of the By-law once a week for two successive weeks in a newspaper published in the said city shall be a sufficient compliance with the provisions of the said Act and the voting on the said By-law may be taken at any time after the expiration of two weeks from the date of the first publication thereof.

By-law to be
approved by
ratepayers.

SCHEDULE "A"

By-Law No. 2116.

A By-law to partially exempt from taxation The St. Catharines Woolen Mills, Limited.

Whereas, the St. Catharines Woolen Mills, Limited, has acquired from James B. Dolan the property hereinafter mentioned in which the said James B. Dolan formerly carried on the business of manufacturing Woolen Goods, and proposes to re-open the said business and to considerably increase the former output thereof, and has requested the Municipal Council of the City of St. Catharines to fix the assessment thereof for all purposes, save school purposes, local improvements, water, sewer and street watering rates at the sum of Two Thousand Dollars (\$2,000.00) per annum, for a period of ten years from the First day of January, 1910.

And whereas this Council deems it expedient to grant the said request in so far as it has power so to do;

Therefore the Council of the City of St. Catharines enacts as follows: That the lands, property, buildings, plant and machinery of The St. Catharines Woolen Mills, Limited, situate in and upon the factory premises described as Lots 38 and 40, Section "E," on the south side of the Upper Hydraulic Race, in the City of St. Catharines, including business assessment, shall be partially exempt from Municipal taxation save and except taxation for school purposes, local improvements, water rates, sewer rates and street watering for the period of ten years from the First day of January, 1910, to the following extent, namely, all of the assessed value thereof over the sum of Two Thousand Dollars (\$2,000.00).

That notwithstanding the partial exemption from taxation hereby granted the property of the said The St. Catharines Woolen Mills, Limited, shall during the said period of ten years be annually assessed in the same manner as if this By-law had not been passed, and the taxes rated thereon shall be duly entered on the Collector's Roll for the said City, but such taxes save and except taxation for school rates, local improvements, water rates, sewer rates and street watering rates shall not be collected on any greater part of the said assessment than two thousand dollars (\$2,000.00).

This By-law shall not be valid unless and until confirmed by an Act of the Legislative Assembly of the Province of Ontario.

Passed this 20th day of December, A.D. 1909.

(Sgd.) J. Albert Pay,
City Clerk.

(Sgd.) J. S. Campbell,
Mayor.

(SEAL.)

CHAPTER 128.

An Act to confirm By-Law No. 2126 of the City of St. Catharines and the Agreement therein mentioned.

Assented to 19th March, 1910.

Preamble.

WHEREAS The Monarch Knitting Company, Limited, has purchased certain manufacturing premises in the said City of St. Catharines for the purpose of establishing thereon the manufacture of knitted goods and has installed machinery and begun the manufacture of said knitted goods; and whereas the Municipal Council of the said City, deeming it greatly to the advantage of the said City, passed a By-law Number 2126, on the 24th day of January, 1910, exempting the plant and property of the said The Monarch Knitting Company, Limited, from Municipal taxation to the extent of all the assessed value thereof, over and above the sum of five thousand dollars, for the period of ten years, from the first day of January, 1910; and whereas the operation of the said plant is greatly in the interests of the ratepayers of the said city; and whereas the said company, has entered into an agreement with the said city, dated January 24th, 1910, covenanting to employ a large number of operatives and workmen and to pay large sums of money in wages, in connection with the said manufacturing business; and whereas the Municipal corporation of the City of St. Catharines has petitioned that an Act may be passed to ratify and confirm the said by-law and agreement; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law 2126
and agree-
ment con-
firmed.
Exemption of
Monarch
Knitting Co.

1. Subject to the provisions of Section 2, By-law No. 2126, of the Municipal Corporation of the City of St. Catharines set forth in Schedule "A" to this Act and the Agreement in the said by-law mentioned, set forth in Schedule "B" to this Act, are hereby confirmed and declared legal, valid and binding.

2. The said By-law shall be submitted to and approved of by two-thirds of those voting of the qualified ratepayers in the manner provided by *The Consolidated Municipal Act, 1903*, except that publication of the By-law once a week for two successive weeks in a newspaper published in the said city shall be a sufficient compliance with the provisions of the said Act and the voting on the said By-law may be taken at any time after the expiration of two weeks from the date of the first publication thereof.

SCHEDULE "A."

BY-LAW NO. 2126.

A By-law to aid by way of bonus The Monarch Knitting Company, Limited, by partial exemption from Municipal taxation for a period of ten years.

Whereas The Monarch Knitting Company, Limited, hereinafter called "The Company," purposes to establish and carry on in the City of St. Catharines the business of manufacturing knitted goods and have purchased the lands and buildings in the said City, hereinafter mentioned, for the purpose of carrying on the said manufacturing business thereon.

And whereas the said Company has applied to the Corporation of the said City of St. Catharines, hereinafter called "the Corporation," for aid by way of bonus to the extent and in the manner following—that is to say—the partial exemption from Municipal taxation of the lands, buildings and property of the Company for a period of ten years.

And whereas the Company has agreed to begin to install the machinery required for its said manufacturing business within one month from the execution of the agreement hereinafter mentioned and to begin manufacturing upon the said premises on or before said first day of March, 1910, and be in full and complete operation not later than the first day of June, 1910.

And whereas the Company has also agreed that from and after the said first day of June, 1910, they will continuously carry on, on the said site the business of manufacturing knitted goods for and during the period of ten years, save and except as in the agreement between the Company and Corporation hereinafter referred to is provided, and will continuously employ in the said business in the said City during the said period of ten years not less than fifty workmen, operatives and employees in the conduct and operation of the said business exclusive of office staff, travellers and salaried officers of the Company, and will in each of the years of the said business pay to its said workmen, operatives and employees actually engaged in the business of the Company in the City of St. Catharines not less than Fifteen Thousand Dollars (\$15,000).

And whereas it is deemed expedient to grant the said aid by way of bonus in the manner and for the purpose aforesaid.

Therefore the Council of the City of St. Catharines enacts as follows:

1. That the lands, property, buildings, plant and machinery known and described as the south parts of Lots 27 and 31 of the Page Street Tract in the City of St. Catharines, described in a certain deed from the City of St. Catharines to Elmer W. Gillmer, dated 16th day of January, 1903, and registered in the Registry Office for the County of Lincoln on the 19th day of January, A.D. 1903, as No. 3708, being the property of the said Company, including business assessment, shall be partially exempt from Municipal taxation, save and

and except taxes for school purposes, local improvements, water rates, sewer rental and street watering, for a period of ten years, from the first day of January, 1910, to the following extent and amount, that is to say, the whole of the assessed value thereof over and above the sum of five thousand dollars.

2. That notwithstanding the partial exemption from taxation granted by this by-law the property of the Company shall, during the said period of ten years, be annually assessed in the same manner as if such by-law had not been passed, and the taxes rated thereon shall be duly entered on the Collector's Roll for the said City of St. Catharines, but such taxes, save and except taxes for school rates, local improvements, sewer rates, water rates, and street watering, shall not be collected on any greater part of the said assessment than five thousand dollars, unless the Company shall have made default in the terms, provisions and stipulations of the said agreement, in which case, the whole of the taxes for the year in which such default shall happen shall become due, and be collected by the said Corporation as if this by-law had not been passed.

3. That the Mayor and Clerk of the Corporation be, and they are hereby authorized to execute and deliver on behalf of the Corporation of the Company the agreement mentioned in the next succeeding clause hereof.

4. That the partial exemption from taxation hereby granted shall be subject to the terms, conditions and stipulations made, and contained in a certain agreement bearing date the 24th day of January, A.D. 1910, by and between the Company and the Corporation, a duplicate of which is hereunto annexed.

This by-law shall not be valid or binding unless and until confirmed by an Act of the Legislative Assembly of the Province of Ontario.

Dated this 24th day of January, A.D. 1910.

(Sgd.) J. ALBERT PAY,
Clerk.

(Sgd.) J. M. McBRIDE,
Mayor.

(Seal.)

SCHEDULE "B."

This agreement made in duplicate this 24th day of January, A.D. 1910, between The Monarch Knitting Company, Limited, hereinafter called "The Company" of the First Part, and the Corporation of the City of St. Catharines, hereinafter called "The Corporation," of the Second Part.

Whereas the Company purposes to engage in the manufacture of Knitted Goods on the premises described as the south parts of Lots Nos. 27 and 37, containing two-thirds of an acre more or less, as laid down on the map or plan of the Page Tract of the City of St. Catharines, registered in the Registry Office for the County of Lincoln on the 23rd day of November, A.D. 1867, and more particularly described in the deed from the City of St. Catharines to Elmer W. Gillmer, dated 16th day of January, A.D. 1903, and registered in the said Registry Office on the 19th day of January, A.D. 1903, as No. 3708, and has applied to the Council of the Corporation of the City of St. Catharines for partial exemption of the property of the Company, including business assessment from municipal taxation, save and except taxes for school purposes, local improvements, water rates, sewer rental and street watering for a period of ten years from and including the first day of January, 1910, to the following extent and amount, that is to say, exemption of all the assessed value of the said property, including business assessment, save and except taxes for school purposes, local improvements, water rates, sewer rental and street watering over and above the sum of five thousand dollars, and a by-law authorizing the said partial exemption from taxation has this day been passed by the said Council.

And whereas the Company, in consideration of the granting of the said partial exemption, has agreed with the Corporation that the Company will do and perform the several acts, matters and things, and observe the several covenants, provisoes and stipulations hereinafter in this agreement set out.

Now, this agreement being the agreement referred to in the said by-law, witnesseth that the Company and the Corporation mutually covenant and agree in the manner following:—That the Company will within one month from the date hereof begin installation of the plant and machinery for the purpose of the manufacturing of knitted goods on the said premises and will begin the manufacture of the said goods thereon not later than the first day of March, 1910, and will, not later than the first day of June, 1910, be in complete operation in said manufacturing business.

2. That from and after the said last mentioned date the Company will continuously carry on its manufacturing business on its said premises for and during a period of ten years and will continuously employ in said manufacturing business not less than fifty workmen or operatives exclusive of office staff, travellers and salaried officers of the Company, save and except for such periods of cessation or shutting down, not, however, to exceed one month in each calendar year, as are ordinarily incident to the nature of such business, and also save and except for such periods of shutting down as shall be caused by strikes of the Company's workmen, said strikes not being caused by the unreasonable acts of the Company, its officers, or servants, and will in each year of the said period pay in wages to its workmen, operatives and employees engaged in the operations of said Company in the City of St Catharines, exclusive of salaries or wages paid to office staff, travellers and salaried officers of the Company not less than fifteen thousand dollars.

3. That the Company will, at all times during the said period of ten years, insure and keep insured its said factory and buildings, and its plant, machinery and fixtures, to their full insurable value, and if at any time during the said period of ten years, the said buildings, plant, machinery, or fixtures shall be wholly or partially destroyed by fire, then and in any such event, and when and so often as the said event shall happen, the Company will at once proceed to rebuild and restore or repair said buildings, plant, machinery and fixtures, so as to make the same suitable and available at the earliest reasonable time for the purposes of its said manufacturing business, and will, at the earliest reasonable time, resume the said manufacturing business on said site.

4. It is agreed that in case of a fire, which shall render it impossible for the Company for the time being, to continue its said manufacturing business, in any or all of the departments thereof, and when and so often as the said event shall happen, then and in any such case, if the Company shall forthwith proceed to rebuild and restore the said building, plant and machinery to their former conditions of efficiency for the purpose of resuming and carrying on its said manufacturing business at the earliest reasonable time, the Company shall be relieved pro tanto of its covenant as to payment of wages for the year of such period in which said fire may occur and the amount of wages for said year shall be estimated proportionately for the portion of such year during which the Company's factory could have been operated.

5. It is agreed that notwithstanding the partial exemption from taxation granted by the said By-law the property of the Company shall, during the said period of ten years, be annually assessed in the same manner as if such by-law had not been passed and the taxes rated thereon shall be duly entered on the Collector's Roll for such City, but such taxes, save and except taxation for school rates, local improvements, water rates, sewer rates and street watering shall not be collected on any greater part of the said assessment than five thousand dollars unless the Company shall have made default in the terms, provisoes and stipulations of this agreement, in

which

which case the whole of the taxes for the year in which such default shall happen shall become due and payable and may be collected by the said Corporation as if the said by-law had not been passed.

6. It is agreed that the auditors of the Corporation or any person or persons appointed by resolution of the Council for that purpose shall at any time during the months of January and February in each year have free access to the books of accounts, statements and pay rolls of the Company for the purpose of ascertaining the amount paid in wages during the year ending on the then preceding 31st day of December.

7. It is agreed that the Corporation will support and approve of an application by the Company to the Legislative Assembly of the Province of Ontario at the next session thereof, for an Act to confirm and validate said by-law and this agreement and that all fees and disbursements incident to the said application and all fees and disbursements and expenses incurred by the Corporation shall be paid by the Company.

In witness whereof the proper officer of the Company has set his hand and affixed the corporate seal and the Mayor of the Corporation has set his hand and caused to be affixed the seal of the Corporation.

Signed, Sealed and Delivered in
the presence of

(Sgd.)

THE MONARCH KNITTING CO., LTD.

(Sgd.) W. J. APLEYARD,

as to Execution by the Mon-
arch Knitting Co., Limited.

(Seal.)

(Sgd.) JAMES B. MALCOLMSON,

(Sgd.)

as to Execution by the Corpor-
ation of the City of St. Cath-
arines.

THE CORPORATION OF THE CITY OF
ST. CATHARINES.

(Sgd.) J. M. McBRIDE,
Mayor.

(Sgd.) J. ALBERT PAY,
City Clerk.

CHAPTER 129.

An Act respecting the Municipality of Shuniah.

Assented to 19th March, 1910.

WHEREAS the Corporation of The Municipality of Shuniah has by its petition prayed for special legislation in regard to the matters hereinafter set forth; and whereas subject to the provisions hereinafter contained it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Sections 1 and 6 of the Act passed in the 39th year of Her late Majesty's reign, Chaptered 37, are repealed; section 5 of the Act passed in the 40th year of the said reign, Chaptered 31, as amended by section 1 of the Act passed in the 53rd year of the said reign, Chaptered 104, is amended by striking out the word "four" in the third line and substituting therefor the word "twenty," and section 1 of the Act passed in the 46th year of the said reign, Chaptered 42, as amended by section 1 of the Act passed in the 53rd year of the said reign, Chaptered 104, is amended by striking out the words "four dollars per acre" at the end of the said section and substituting therefor the words "twenty dollars per acre."

39 V., c. 37.
ss. 1 and 6,
repealed;
40 V., c. 31.
s. 5; 46 V.,
c. 42, s. 1
amended.

Assessment
of lands in
Shuniah.

2. The said Municipality shall have all the powers of a township for macadamizing any public street or highway as a local improvement under the provisions of *The Consolidated Municipal Act, 1903*, relating to local improvements.

Power to
construct
macadam
roads as
local im-
provements.

3.—(1) All sales of land within the Municipality of Shuniah, held prior to the 31st day of December, 1908, and which purport to be made by the Corporation of the said municipality for arrears of taxes in respect to lands so sold, are validated and confirmed, and all deeds of lands so sold, executed by the Reeve and Treasurer of the said mun-

Tax sales and
deeds con-
firmed.

cipality

cipality, purporting to convey the said lands so sold to the purchaser thereof, or his assigns, are validated and confirmed, and shall have the effect of vesting the lands so sold and conveyed or purported to be sold and conveyed, and the same are vested in the purchaser or his assigns and his and their heirs and assigns, in fee simple free and clear of and from all right, title and interest whatsoever of the owners thereof at the time of such sale, or their assigns, and of all charges and encumbrances thereon, except taxes accrued since those for non-payment whereof the said lands were sold.

(2) This section shall extend and apply to cases where the municipality or any one in trust for it or on its behalf became the purchaser of the lands.

Tax sales held prior to 1883, and deeds confirmed.

R.S.O. 1871, c. 22

4. All tax sales of lands in the Municipality of Shuniah prior to the year 1883, purporting to be made under *The Act respecting the taxation of Patented Lands in the District of Algoma* are hereby confirmed and declared to be valid, and any deed or conveyance made in pursuance thereof shall be held to have vested in the grantee therein named an absolute title in fee simple to the lands therein described. Provided the validity of such deed has not been heretofore questioned in any Court of competent jurisdiction.

Pending litigation not affected.

5. Nothing in this Act contained shall affect any action, litigation or other proceeding now pending, but the same may be proceeded with and finally adjudicated upon in the same manner and to the same extent as if this Act had not been passed.

CHAPTER 130.

An Act to confirm certain By-laws and an Agreement between the Townships of Southwold and Yarmouth.

Assented to 7th March, 1910.

WHEREAS the Municipalities of the Townships of Preamble.
Southwold and Yarmouth have by their petition represented that pursuant to By-laws Numbers 652 and 780 of the said respective corporations, they have entered into an agreement, which said by-laws and agreement are schedules A, B and C hereto; and whereas, under the provisions of the Municipal Act, agreements respecting the maintenance of Town Line roads can be entered into between municipalities for a period not exceeding ten years only; and whereas the said corporations have by their petitions prayed for an Act ratifying and confirming the said by-laws and agreement; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. By-law Number 652 of the Township of Southwold and By-law Number 780 of the Township of Yarmouth, and the agreement entered into between the said municipalities, dated May 3rd, 1909, set out in Schedules "A," "B" and "C" hereto, are confirmed, and declared to be legal, valid and binding.

By-law No. 652 of Southwold and 780 of Yarmouth and agreement confirmed.

SCHEDULE "A."

BY-LAW No. 652.

OF THE CORPORATION OF THE TOWNSHIP OF SOUTHWOLD.

By-law to grant aid to the Township of Yarmouth for the improvement of the road passing from the Township of Yarmouth into the Township of Southwold over what is known as Kain's Hill and to authorize and approve of an agreement between the Townships of Southwold and Yarmouth for the maintenance of roads used in lieu of the Town Line.

WHEREAS by Section 644 of the Municipal Act the Council of any Municipality may pass by-laws for granting aid to an adjoining Municipality in improving any highway passing from or through adjoining Municipality. And whereas it is desirable in the interest of the residents of the Township of Southwold that the road passing from the Township of Yarmouth over what is known as Kain's Hill into the Township of Southwold should be improved. And whereas differences have for many years existed between the Townships of Yarmouth and Southwold as to whether certain roads wholly within the boundaries of the respective Townships are roads used in lieu of the Town Line. And whereas an agreement has been arrived at between the said Townships for the purpose of providing for the settlement of the said differences.

Now therefore the Council of the Corporation of the Township of Southwold enacts as follows:—

1. That the Reeve and Clerk of this Corporation be and they are hereby authorized and required to execute the agreement between the Corporation of the Township of Yarmouth and this Corporation, a copy whereof is hereto attached, and to affix the corporate seal thereto, and to deliver such agreement when so executed to the Corporation of the Township of Yarmouth upon receipt of a counterpart thereof duly executed by the said Corporation of the Township of Yarmouth.

2. That upon the completion of the repairs and improvements to the road passing from the Township of Yarmouth to the Township of Southwold over what is known as Kain's Hill to the extent of and in the manner in the said agreement provided, that this Corporation do pay to the Township of Yarmouth one-half the cost thereof including costs and damages in connection therewith as in the said Agreement provided for.

Dated at the Council Chamber and finally passed this third day of May, A.D., 1909.

(Sgd.)	W. H. TURNER,	<i>Reeve.</i>
(Corporate seal of the Township of Southwold.)		
(Sgd.)	M. CAMPBELL,	<i>Clerk.</i>

SCHEDULE "B."

BY-LAW No. 780.

OF THE CORPORATION OF THE TOWNSHIP OF YARMOUTH.

By-law to authorize and approve of an Agreement between the Townships of Southwold and Yarmouth for the maintenance of roads used in lieu of the Town Line, and for the improvement and repair of that certain Road known as "Kain's Hill."

WHEREAS differences have for many years existed between the Townships of Southwold and Yarmouth as to whether certain roads wholly within the boundaries of the respective Townships are roads used in lieu of the Town Line. And whereas an Agreement has been arrived at between the said Townships for the purpose of providing for the settlement of their said differences.

Now

Now therefore the Council of the Corporation of the Township of Yarmouth enacts as follows:—

1. That the Reeve and Clerk of this Corporation be and they are hereby authorized and required to execute the Agreement between the Corporation of the Township of Southwold and this Corporation, a copy whereof is hereto attached, and to affix the Corporate Seal thereto, and to deliver such Agreement when so executed to the Corporation of the Township of Southwold, upon receipt of a counterpart thereof duly executed by the said Corporation of the Township of Southwold.

2. That the Reeve of this Corporation be and he is hereby authorized and empowered to forthwith proceed with the improvements and repairs to the said Kain's Hill as in said Agreement provided and set forth.

Dated at Yarmouth Centre and finally passed this Third day of May, A.D., 1909.

(Sgd.) W. G. SANDERS,
[Corporate Seal of the Township of Yarmouth.] *Reeve*

(Sgd.) W. C. CAUGHELL,
Clerk.

SCHEDULE "C."

Memorandum of Agreement made this Third day of May, A.D., 1909.

Between the Corporation of the Township of Southwold, of the first part, and the Corporation of the Township of Yarmouth, of the second part.

WHEREAS the parties hereto are adjoining Municipalities in the County of Elgin.

And whereas the original Town Line between the said Townships south of the City of St. Thomas is intersected by and falls upon deep ravines and gulleys which have made it impossible to open the same except for very short distances.

And whereas differences exist between the parties hereto as to whether certain roads within the said Municipalities are roads used in lieu of the said Town Line.

And whereas for many years an Agreement has existed between the two Municipalities, entered into under the authority of The Municipal Act, whereby each Municipality agreed to maintain the roads wholly within its own boundaries, but the said Agreement has now expired.

And whereas a certain road leading from what is known as The London & Port Stanley Gravel Road in the Westerly portion of the City of St. Thomas, westward through a portion of the Township of Yarmouth, and over what is known as Kain's Hill, and passing from the said Township of Yarmouth into the said Township of Southwold, is largely used by residents of the Township of Southwold in going to and from the City of St. Thomas.

And whereas the grade upon that portion of the said Road upon Kain's Hill aforesaid, and being within the Township of Yarmouth, is very steep, and the said Road is otherwise in a dangerous condition, and it is necessary that a large sum should be expended thereon, for the purpose of repairing the same and making permanent improvements thereon, and such improvements may cause damage to adjoining property.

And

And whereas it has been agreed by and between the parties hereto that the said road upon the said Kain's Hill should be permanently repaired and improved, and for the purpose thereof that the Township of Southwold should make a grant under the provisions of Section 644 of The Municipal Act to the Township of Yarmouth to the extent of one-half of the cost of such repairs and improvements, and one-half of all damages to adjoining property that may be incurred by reason thereof, such costs to include as well the costs of acquiring any necessary additional land for the purposes of the said road as the cost of the repairs and the improvements thereon.

And whereas it has been agreed by the parties hereto that in consideration of such grant and the Covenants hereinafter provided, and for the purpose of settling the said differences that the said parties hereto shall each for themselves for all times hereafter from the date of this Agreement, maintain and keep in repair all other roads lying wholly within their respective boundaries without reference to whether the same are or have been roads used in lieu of the Town Line, and shall each indemnify and save harmless the other from or on account of any loss, cost or damage arising out of the want of repair or otherwise by reason of any such road within their respective boundaries.

And that the said Corporation of the Township of Yarmouth shall from and after the completion of the said repairs and improvements upon Kains Hill as aforesaid, forever after maintain and keep the said road within the boundaries of the Township of Yarmouth in repair, and shall indemnify the Corporation of the Township of Southwold from any loss or damage in connection therewith arising subsequent to the completion of such repairs and improvements.

Now this Agreement witnesseth that in consideration of the premises and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto do hereby Covenant and Agree, the one with the other in the manner following namely:—

The said Corporation of the Township of Yarmouth Covenants and Agrees with the said Corporation of the Township of Southwold that it will proceed to make and complete, and will make and complete, permanent repairs and improvements on what is known as Kain's Hill on that portion of the road hereinbefore described leading from the Gravel Road in the City of St. Thomas westerly to the Township of Southwold over the said Hill, such repairs and improvements to be made under the direction and supervision of James A. Bell of the said City of St. Thomas, Civil Engineer, and to consist of all such repairs and improvements as in the opinion of the said James A. Bell shall be necessary or desirable for the purpose of permanently repairing and improving the said road so that the same may be safe and reasonably easy for public travel.

And that the said Corporation of the Township of Yarmouth will from and after the completion of such repairs and improvements, maintain and keep in repair the said road within the limits of the Township of Yarmouth, for all time thereafter, and will indemnify and save harmless the said Corporation of the Township of Southwold from and on account of all loss, costs, claims and demands that may thereafter be made on account of the said road over the said Hill, whether by reason of non-repair of the said road or otherwise howsoever.

And the said Corporation of the Township of Southwold Covenants and Agrees with the said Corporation of the Township of Yarmouth that it will, upon the completion of the said work, under the supervision of and to the satisfaction of the said James A. Bell, pay to the said Corporation of the Township of Yarmouth, one-half share of the cost of all such repairs and improvements, together with the one-half share of any money expended for the purpose of acquiring additional land for the purposes of the said repairs and improvements, and for any deviation of the said road over the said Hill, or that the said Corporation of the Township of Yarmouth may be

required

required to pay by way of damages, and costs for damages to adjoining property by reason of such repairs and improvements being made, and also a one-half share of any other damages and costs which the said Township of Yarmouth may be compelled to pay by reason of or in connection with the making of such repairs and improvements; such payments by the said Corporation of the Township of Southwold to be made within one month from the receipt by the Reeve or Clerk of the said Township of a Certificate from the said James A. Bell, that such repairs and improvements have been completed to his satisfaction, with a detailed statement shewing all sums of money expended on account of the matters aforesaid properly vouched.

Provided always and it is hereby agreed that no deviation or alteration in the location of the said road shall be made which shall have the effect of locating any part of the grade on the said hill within the Township of Southwold.

And the said parties hereto Covenant and Agree each with the other that from and after the date of this Agreement they shall and will forever hereafter assume, maintain and keep in repair all other roads wholly within the boundaries of their respective Municipalities, without regard to any contention that may have been heretofore and might hereafter be raised that the said roads were or had been roads used in lieu of a Town Line, and that they will each indemnify and save harmless the other from and on account of any loss, cost, claim or demand that may at any time hereafter arise or be made by reason of non-repair of any such road within their respective boundaries, the intention being that each Municipality shall be liable to maintain and repair, and shall maintain and repair all roads within its own boundaries, and shall indemnify the other from loss on account of such roads.

And it is hereby further agreed between the parties hereto that they will each join in an application to the Legislature of the Province of Ontario at the next Sittings thereof, for the purpose of obtaining legislation confirming this Agreement, and that they will each pay and provide one-half the cost of and in connection with such application.

In witness whereof the said Corporations have caused their Corporate Seals to be affixed hereto, attested by the hands of their respective Reeves and Clerks.

Signed, sealed and delivered in the presence of

	(Sgd.)	W. H. TURNER
[Seal of Corporation of Southwold.]		<i>Reeve.</i>
	(Sgd.)	M. CAMPBELL,
		<i>Clerk</i>
	(Sgd.)	W. G. SANDERS,
[Seal of Corporation of Yarmouth.]		<i>Reeve.</i>
	(Sgd.)	W. C. CAUGHELL,
		<i>Clerk</i>

CHAPTER 131.

An Act to confirm an Agreement between the City
of Stratford and the Grand Trunk Railway
Company of Canada.

Assented to 19th March, 1910.

Preamble.

WHEREAS, The Municipal Corporation of the City of Stratford and the Grand Trunk Railway Company of Canada have by their respective petitions prayed that an Act may be passed confirming and declaring legal and valid a certain agreement made the twenty-eighth day of July, A.D. 1904, by and between the said Corporation and the said Company, which agreement is set forth in the schedule to this Act; and whereas no opposition has been offered to the said petitions; and whereas it is expedient to grant the prayer of the said petitions;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Agreement
fixing taxation
of G. T. Ry.
Co. confirmed.

1. The agreement set out in the Schedule hereto is hereby confirmed and declared legal and valid for all purposes, and the Municipal Corporation of the City of Stratford and the Grand Trunk Railway Company of Canada, are hereby authorized and empowered to do any and all acts necessary to carry out and give full effect to the said agreement in all respects according to the spirit, true intent and meaning thereof.

SCHEDULE

This agreement, made this twenty-eighth day of July, in the year 1904. By and Between:—The Corporation of the City of Stratford, in the Province of Ontario, hereinafter called the "City" of the first part, and the Grand Trunk Railway Company of Canada, hereinafter called the "Company" of the second part;

Whereas, the Company propose to enlarge their locomotive shops and plant, situated in the City of Stratford, by the erection of addi-

tional

tional buildings and the installing of new tools and machinery, involving an expenditure of not less than the sum of One hundred and twenty thousand dollars, in order to provide additional equipment and facilities for the building and repair of railway locomotives and the appliances connected therewith.

And whereas, by an agreement dated the 27th day of February, A.D. 1900, made between the said City and the Company, and which was duly legalized and confirmed by the Statute of the Province of Ontario, 63 Victoria, Chaptered 97, provision was made whereby the taxes on the property of the Company situated in the said City of Stratford were fixed at the sum of \$8,000 per year for a period of 10 years, expiring on 31st December, 1909.

And whereas, the establishment and works of the Company has in the past contributed materially to the prosperity of the City by the employment of a large force of skilled labour and also materially to the revenues of the City in taxation, and as an inducement to the Company to increase their plant as proposed, the City has been requested to agree to an extension of the term of said agreement of 27th February, A.D. 1900, for a period of Ten years from and after the 31st day of December, A.D. 1909, and it has been determined to enter into these presents to give effect thereto.

Therefore this agreement witnesseth that the said parties hereto have and they hereby do covenant, promise and agree each with the other in manner following, that is to say:

1. The Company covenant and agree with the City immediately after the execution hereof to proceed with the erection of the proposed new buildings to enlarge their said locomotive shops at Stratford aforesaid and according to plans which have immediately before the execution hereof been shown to and explained to the City Council, and also to supply and instal new tools and machinery in the said works, the whole at an expenditure of not less than One hundred and twenty thousand dollars, calculated at fair contract and market prices for the said buildings and tools and machinery.

2. The City covenants and agrees with the Company in consideration of the premises to extend, and it is hereby declared and agreed by and between the parties that all the provisions of said agreement, dated 27th of February, A.D. 1900, respecting the yearly rates and taxes to be paid on the Company's property in the said City of Stratford are hereby extended for a further period of ten years from the 31st day of December, 1909, to the same extent, and as fully in every respect as if the said extended or additional term of ten years had been originally included in and fixed by the said agreement of 27th February, A.D. 1900, and shall be held to be binding to that extent on each of the parties hereto accordingly.

3. The parties further covenant and agree each with the other to join in any application to the Legislative Assembly of the Province of Ontario for an act to be passed to ratify, confirm and legalize the agreement; the expense in obtaining said act to be paid by the Company, and to assist by all lawful means to procure the passage of such Act.

In Witness whereof the parties hereto have hereunto set their hands and seals on the day and year first above set forth.

Signed, sealed and delivered, THE CORPORATION OF THE CITY OF STRATFORD.

(By the City)

(Sgd.) ANGUS SMITH.

Per,

(Sgd.) WILLIAM HEPBURN, L. S.
Mayor.

(By the Company)

(Sgd.) A. T. MORTON.

(Sgd.) R. R. LANG,
Clerk.

THE GRAND TRUNK RAILWAY COMPANY
OF CANADA. (L.S.)

Per,

CHAS. M. HAYS,
2nd Vice-President and General Manager.

CHAPTER 132.

An Act respecting the Township of Tay.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Municipal Corporation of the Township of Tay has by petition represented that the Georgian Bay and Seaboard Railway Company, and the Canadian Pacific Railway Company, have acquired certain properties in the said Township and are now erecting a grain elevator thereon; and have in contemplation the construction of railway terminals, wharves and other works in the said Township, and have further represented that the establishment of the said railway terminals and other works will cause the expenditure of a large sum of money in the said Township, and will improve a considerable area of land which has heretofore been unproductive; and whereas the said Township is desirous of assisting the said Companies, and has agreed to fix the amount of taxation to be paid by the said Companies, or either of them, upon their plant and premises, and has entered into an Agreement with the said companies dated the sixteenth day of November, A.D., 1909, under the authority of By-law No. 482; and whereas the said Corporation has by its petition prayed that the said By-law and the Agreement set out in the schedule thereto, be confirmed and be declared valid and binding upon the said Corporation and the said companies; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

By-law no.
482 of Tp. of
Tay fixing
assessment of
property of
Georgian Bay
and Seaboard
Railway and
C. P. R. Rail-
way con-
firmed.

1. By-law No. 482 of the Corporation of the Township of Tay, set out in full in Schedule "A" to this Act, and the Agreement between the said Corporation of the Township of Tay, and the Georgian Bay and Seaboard Railway Company and the Canadian Pacific Railway Company, set out in full in the schedule to the said By-law No. 482, and also

shown

shown in the Schedule to this Act, are both hereby confirmed and declared legal, valid and binding upon the said Municipal Corporation and the rate-payers thereof, and upon the said companies and both of them.

SCHEDULE "A."

TOWNSHIP OF TAY.

BY-LAW No. 482.

A by-law for the purpose of authorizing the execution of an agreement with the Canadian Pacific Railway Company and the Georgian Bay and Seaboard Railway Company in reference to the assessment on their properties in the Township of Tay:

Whereas the Georgian Bay and Seaboard Railway Company and the Canadian Pacific Railway Company have acquired certain property in the Township of Tay in the County of Simcoe, and are now erecting a grain elevator thereon, and have in contemplation the construction of terminal facilities and other works in the Township of Tay;

And whereas the said companies have requested the Township of Tay to fix the amount of taxation to be paid by them upon their plant and premises in the said Township of Tay;

And whereas it is expedient to encourage the construction of the said works in the Township of Tay, and for that purpose to assist the said company by fixing their said taxation.

Now, therefore, the Municipal Council of the Township of Tay enacts as follows:

1. It shall be lawful for the Corporation of the Township of Tay to enter into an agreement with the Canadian Pacific Railway Company and the Georgian Bay and Seaboard Railway Company, set out in full in Schedule "A" to this By-law, and the Reeve and the Clerk of the said Corporation are hereby authorized to affix the Corporate Seal to the said agreement; and to attach their signatures thereto.

2. This By-law shall not come into force, or be of any effect whatsoever until the same shall have been approved of and declared valid and binding upon the said Municipality by an Act of the Legislature of the Province of Ontario, and the said By-law shall come into force and take effect from and after the day upon which any such Act is passed.

By-law read a First, Second and Third time and passed at a regular meeting of the said Municipal Council of the Township of Tay, held at the Council Chamber in the Village of Victoria Harbour, this Fifteenth day of December, A.D. 1909.

(Signed) WALTER LAWSON,
Reeve.

(Seal) (Signed) T. W. BROWN,
Clerk.

Schedule "A" to the above By-law.

This agreement made in duplicate the Sixteenth day of November, 1909.

BETWEEN

BETWEEN

The Corporation of the Township of Tay (hereinafter called the "Corporation") of the first part,

and

the Canadian Pacific Railway Company and the Georgian Bay and Seaboard Railway Company (hereinafter called the "Companies") of the second part.

Whereas the Companies have acquired certain property in the Township of Tay, in the County of Simcoe, and are now erecting a grain elevator thereon, and have in contemplation the construction of terminal facilities and other works in the Township of Tay, which will involve the expenditure of a large sum of money in the said Township, and will be a permanent benefit to the Municipality.

And whereas the said Companies have requested the Corporation to fix the amount of taxes to be paid by them or either of them, upon all the lands, buildings, plant, premises and property of the said Companies, or either of them, in the said Township, including therein all improvements, extensions, additions, changes, or new works, which the said Companies, or either of them, may hereafter make under their present powers, or under any authority hereinafter conferred upon them, or either of them;

And whereas for the purpose of assisting the said Companies and securing the said work, the said Corporation have agreed to fix the said taxation as hereinafter set out.

Now therefore the parties hereto, in consideration of the premises, and on behalf of themselves, their respective successors and assigns, hereby covenant and agree together as follows:

1. The Corporation hereby agrees to fix a total annual levy for taxes upon all the assessable property of the Companies, within the limits of the Township of Tay, and in the County of Simcoe, for the period of twenty years, from and after the thirty-first day of December, 1909, at the sum of seventeen hundred and fifty dollars, which shall be paid annually by the said Companies for all purposes, excepting School Taxes, and shall be payable at the same time and upon the same terms, both as to discount for prompt payment (if any) and subject to the same penalties for neglect in payment as shall be provided for by the annual By-law for levying rates in the said Township, and the Corporation shall have all the rights, remedies and powers as to collection of the said sum provided for by the said By-law, or by the Municipal Act or Assessment Act, or any other statute in that behalf.

2. The Corporation further agrees to place a fixed assessment of the sum of \$300,000.00 on all the assessable property of the said Companies in the said Township of Tay for the purpose of School Taxes.

3. The Companies covenant and agree with the Corporation that in consideration of the said fixed taxation and assessment hereinbefore provided for, they will not make any application for the incorporation of the separate Municipality at their railway terminal in the said Township of Tay during the period covered by this agreement.

4. It is understood and agreed between the parties hereto that the said fixed annual levy for taxes and fixed assessment for school taxes shall cover all the land, buildings, plant, premises, and properties of the said Companies, or either of them, in the said Township of Tay, and also all buildings, work, plant, premises now in existence or that may hereafter be erected by the said Companies,

CHAPTER 133.

An Act to confirm an Agreement between the
Township of Tay and the Grand Trunk
Railway Company of Canada.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Municipal Corporation of the Township of Tay and the Grand Trunk Railway Company of Canada have by their respective petitions prayed that an Act may be passed confirming and declaring legal and valid a certain agreement made the twelfth day of June, A.D. 1909, by and between the said Corporation and the said Company, which agreement is set forth in the Schedule to this Act; and whereas no opposition has been offered to the said petitions; and whereas it is expedient to grant the prayer of the said petitions;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Agreement
between Town-
ship of Tay
and G. T. Ry.
Co. confirmed.

1. The agreement set out in the Schedule hereto is hereby confirmed and declared legal and valid for all purposes, and the Municipal Corporation of the Township of Tay and the Grand Trunk Railway Company of Canada are hereby authorized and empowered to do any and all acts necessary to carry out and give full effect to the said agreement in all respects and according to the spirit, true intent and meaning thereof.

SCHEDULE.

MEMORANDUM OF AGREEMENT made in duplicate this 12th day of June, 1909. Between the Grand Trunk Railway Company of Canada, hereinafter called "the Company," of the First Part, and the Municipal Corporation of the Township of Tay, hereinafter called "the Corporation," of the Second Part.

Whereas the Company have requested the Corporation to fix the amount of the annual tax to be paid by them upon all their assessable property within the limits of the Township of Tay, and upon any additions to be made thereto including lands, elevators, stations, round-houses, machine-shops and other buildings (but not including dwelling houses), either now used or hereafter to be used in connection with the railroad, grain and other operations of the

Company

Company for a period of ten years from the 1st day of January, 1910, and for a further period of ten years thereafter as hereinafter provided for.

And whereas the present and contemplated future operations of the Company will be of great benefit and advantage to the Corporation and it is deemed advisable to grant the request of the Company.

It is therefore mutually agreed between the Company and the Corporation and their respective successors and assigns as follows:—

1. The Corporation hereby agrees to fix the total annual taxes to be paid by the Company upon all their assessable property within the limits of the Township of Tay for all purposes whatsoever, except school taxes, at the sum of \$1,750.00, the same to be paid annually for the period of ten years from the 1st day of January, 1910, the same to be levied and paid annually at the same time and upon the same conditions as the other Municipal taxes of the Township.

2. The Corporation further agrees to fix the annual taxes of the Company as aforesaid, at the annual sum of \$1,750.00, for an additional period of ten years after the expiration of the period provided for in the last preceding paragraph, and that school rates shall be levied on the assessable property of the Company on a fixed assessment of \$300,000.00 during the said period of ten years mentioned in the next preceding paragraph and during the additional period of ten years above mentioned, it being understood, however, that the provisions of this paragraph shall not be binding on the Corporation until the same shall have been validated by an Act of the Legislature of the Province of Ontario, which Act is to be applied for and obtained at the expense of the Company, the said Corporation hereby agreeing to support the passage of the same, and to render all reasonable and friendly assistance in connection therewith.

3. The Company undertake and agree to keep in operation the grain elevators, included in this agreement and known as the Aberdeen and Grand Trunk Pacific Elevators, and any additions which may hereafter be made thereto, for the period or periods covered by this agreement, and upon breach of this undertaking for a period of two years, this agreement shall thereby, *ipso facto*, become null and void, and the Corporation shall be at liberty thereafter to assess the lands and premises of the Company as provided and allowed by the provisions of the Assessment laws, then in force, and in the same manner as if this agreement had not been entered into.

In witness whereof the parties hereto have hereunto set their corporate seals and the hands of the proper officials in that behalf.

Signed, sealed and delivered THE MUNICIPAL CORPORATION OF
in the presence of THE TOWNSHIP OF TAY,

(By the Corporation)
BESSIE BROWN,

Per
WALTER LAWSON,
Reeve.
T. W. BROWN,
Clerk. L.S.

(By the Company)
R. S. LOGAN.

THE GRAND TRUNK RAILWAY
COMPANY OF CANADA,

CHAS. M. HAYS,

*2nd Vice-President and General
Manager.* L.S.

CHAPTER 134.

An Act to confirm By-Law No. 9 of 1909 of the
Town of Thornbury.*Assented to 7th March, 1910.*

Preamble.

3 Edw VII,
c 19.

WHEREAS the Municipal Corporation of the Town of Thornbury has by petition represented that By-law No. 9 of 1909 of the said Town set out in Schedule "A" hereto was duly submitted to the qualified ratepayers of the said Town on the 13th day of April, 1909, as required by *The Consolidated Municipal Act, 1903*, whereupon out of 269 votes entitled to be cast in respect of said By-law 230 votes were cast in favor thereof and no votes were cast against the same; that on the 17th day of May, 1909, said By-law was finally passed by the Municipal Council of the said Town; that no application has been made to quash or set aside the said By-law; that the amount of the rateable property of the said Corporation according to the last revised assessment roll is \$302,011.38, and the existing debenture debt of the said Corporation is the sum of \$8,542.84; and whereas the said Corporation has by its said petition prayed that the said By-law be validated and confirmed; and whereas it is expedient to grant the prayer of the said petition.

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law No. 9
of 1909, of
Town of
Thornbury
confirmed

1. By-law number 9 of 1909 of the Corporation of the Town of Thornbury set out in Schedule "A" hereto, and the agreement set out in the schedule to the said By-law are hereby ratified and confirmed, and declared to be legal, valid and binding on the said Corporation, and on the ratepayers thereof and the said Corporation is hereby declared to be and to have been since the final passing of said By-law authorized and empowered to do all necessary and proper Acts for the full and effectual carrying out of the objects of the said By-law and agreement, and the debentures issued or to be issued thereunder, when so issued, are declared to be legal, valid and binding on the said Corporation and the ratepayers thereof.

SCHEDULE A

SCHEDULE "A."

THE CORPORATION OF THE TOWN OF THORNBURY.

BY-LAW No. 9, A.D., 1909.

A By-law to authorize certain grants to Charles A. Farrar, George H. Davey and Edgar E. Shortell to aid them in establishing a manufacturing industry in the Town of Thornbury.

Whereas an agreement bearing date the 13th day of March, A.D., 1909, has been made and entered into between Charles A. Farrar, Engineer, George H. Davey, Manufacturer, and Edgar E. Shortell, Manufacturing Chemist, therein and hereinafter called the Applicants, of the one part and the Corporation of the Town of Thornbury, therein and hereinafter called the Corporation, of the other part, which said Agreement is incorporated in this By-law and set forth in the Schedule "B" hereto;

And whereas the industry proposed to be established by the Applicants will employ a large number of men and will expend large sums of money in the said Town, and it will be greatly in the interest of the said Town to procure the establishment of the said industry within its limits;

And whereas it is expedient to grant the loan and the lease of lands in the said Agreement set forth and mentioned;

And whereas for the purpose of raising the sum of ten thousand dollars (\$10,000) the amount of the said loan it is necessary to issue Debentures of the Corporation for the sum of \$10,000 as hereinafter provided, bearing interest at five per cent. per annum (which sum of \$10,000 is the amount of the debt intended to be created by this By-law) the proceeds of the said Debentures to be applied to the said purpose and no other;

And whereas it is desirable to issue the said debentures at one time, and to make the principal of the said debt repayable by yearly sums during the period of fifteen years, being the currency of the said debentures; said yearly sums being of such amounts that the aggregate amount payable in each year for principal and interest in respect of said debt shall be as nearly as possible equal to the amount so payable in each of the other fourteen years of said period, as shown in Schedule "A" to this By-law.

And whereas the sum of \$963.42, is the total amount required by the Consolidated Municipal Act, 1903, to be raised annually by special rate for the period of fifteen years, for paying the said debt and interest;

And whereas the total amount of the whole rateable property of the said Town of Thornbury according to the last revised assessment roll thereof is the sum of \$298,093.55;

And whereas the amount of the existing debenture debt of the said Town of Thornbury is the sum of \$8,622.35, of which no part, either of principal or interest, is in arrear;

And whereas it is expedient to authorize, ratify and confirm the said hereinbefore in part recited Agreement;

Now, therefore The Municipal Council of the Corporation of the Town of Thornbury enacts as follows:

1. The execution of the said Agreement on behalf of the Corporation of the Town of Thornbury by the Mayor and Clerk of the Council thereof and affixing the seal of the said Corporation thereto is hereby authorized, ratified and confirmed, and the said Agreement is hereby incorporated in this By-law and shall be read and construed

as

as part thereof, and the said Mayor and Clerk are hereby authorized in the name and on behalf of the said Corporation and under its corporate seal to execute and deliver to the said Company the lease of the said lands on the terms and conditions set out in the said Agreement.

2. It shall be lawful for the Municipal Council of the said Corporation to aid the said Company by a loan of \$10,000, repayable in accordance with the terms of the said Agreement, and to perform and fulfil all the covenants and obligations on the part of the Corporation therein contained.

3. That for the purpose of raising the sum of \$10,000 for the purposes aforesaid fifteen debentures of the said Corporation each for the sum of \$963.42 shall be issued on the 20th day of December, 1909, each of which debentures shall be dated on the date of the issue thereof, and shall be payable within fifteen years thereafter, namely, on the 20th day of December, 1910, and on the 20th day of December in each of the next succeeding fourteen years, respectively, at the Bank of Toronto in the said Town of Thornbury.

4. Each of the said debentures shall be signed by the Mayor of the said Town of Thornbury or by some other person authorized by By-law to sign the same, and by the Treasurer of the said Town, and the Clerk shall attach thereto the corporate seal of the municipality.

5. The said debt shall bear interest at the rate of five per centum per annum payable yearly at the said Bank on the 20th day of December in each and every year during the currency thereof, which interest is already included in the amount of the said debentures.

6. During the currency of the said debentures there shall be raised annually by special rate on all the rateable property of the said Town of Thornbury the sum of \$963.42 for the purpose of paying the amount due in each of the said years for principal and interest in respect of the said debt as shewn in Schedule "A" hereto annexed.

7. This By-law so far as it is ultra vires of the Corporation shall not come into force or take effect until the legislation referred to in clause 12 of said Agreement shall have been obtained.

8. The votes of the qualified electors of the said Town of Thornbury shall be taken on this By-law at the following times and places, that is to say, on Tuesday the thirteenth day of April, 1909, commencing at the hour of nine o'clock in the forenoon and continuing until five o'clock in the afternoon of the same day by the following Deputy Returning Officers and Poll Clerks:

Polling sub-division number One, comprising all that part of the Town of Thornbury known as the East Ward at Raymond's Wagon Shop, by Charles Hunt, Deputy Returning Officer and Wm. Compton, Poll Clerk.

Polling sub-division number Two, comprising all that part of the said Town known as the North Ward at the Town Hall, by A. D. McLean, Deputy Returning Officer, and Ernest Boone, Poll Clerk.

Polling sub-division number Three comprising all that part of the said Town known as the South Ward at Wm. Armstrong's shop, by Thomas Boone, Deputy Returning Officer, and Wm. Armstrong, Poll Clerk.

9. That on Saturday the tenth day of April, 1909, the Mayor of the said Town of Thornbury shall attend at the Town Hall at ten o'clock in the forenoon to appoint persons to attend at the various polling places aforesaid, and at the final summing up of the votes by the Clerk on behalf of the persons interested in, and desirous of promoting or opposing the passing of this By-law respectively.

10. The Clerk of the Council of the said Town of Thornbury shall attend at the Town Hall at ten o'clock in the forenoon on Wednesday the 14th day of April, 1909, to sum up the number of votes given for and against this By-law.

Read a first and second time in open council at the Town Hall, in the said Town of Thornbury, the 15th day of March, 1909.

Finally passed in open Council the 17th day of May, 1909.

S. McCALLUM,

Mayor.

EDWARD RORKE,

Clerk.

SCHEDULE "A."

Referred to in the foregoing By-law showing how the amount of \$963.42, thereby required to be raised annually by special rate is apportioned:

YEAR.	INTEREST.	PRINCIPAL.	TOTAL ANNUAL AMOUNT.
1910	\$ 500 00	\$ 463 42	\$ 963 42
1911	476 83	486 59	963 42
1912	452 50	510 92	963 42
1913	426 96	536 46	963 42
1914	400 13	563 29	963 42
1915	371 97	591 45	963 42
1916	342 39	621 03	963 42
1917	311 34	652 08	963 42
1918	278 74	684 68	963 42
1919	244 50	718 92	963 42
1920	208 56	754 86	963 42
1921	170 81	792 61	963 42
1922	131 18	832 24	963 42
1923	89 57	873 85	963 42
1924	45 82	917 60	963 42
	\$4,451 30	\$10,000 00	\$14,451 30

SCHEDULE "B."

Memorandum of Agreement made the thirteenth day of March, one thousand nine hundred and nine:

BETWEEN—

Charles A. Farrar, of the Town of Meaford, in the County of Grey, Engineer; George H. Davey, of the said Town of Meaford, Manufacturer, and Edgar E. Shortell, of the City of Toronto, in the County of York, Manufacturing Chemist, (hereinafter called the Applicants) of the first part,

—and—

The Corporation of the Town of Thornbury, in the County of Grey (hereinafter called the Corporation) of the second part.

Whereas it has been proposed between the parties hereto that the Applicants shall establish an industry in the Town of Thornbury for the manufacture and sale of products from the distillation and carbonization of wood and the various and allied industries arising from the manufacture and sale of the bi-products therefrom, and that the said Corporation shall grant a bonus by way of loan of ten thousand (10,000) dollars, and lease of certain lands to the said Applicants upon the terms and conditions hereinafter set forth.

Now

Now this Agreement witnesseth that the parties hereto in consideration of the terms, covenants and agreements hereinafter set forth have agreed each with the other as follows:

1. The said Applicants agree with the said Corporation to erect on the lands and premises hereinafter described the following buildings:

One coal storage at least 32 x 60 feet, two stories high.
Charging room at least 114½ x 32 feet, two stories high.
Retort house at least 54½ x 32 feet, three stories high.
Condensing room at least 54½ x 14 feet, two stories high.
Boiler and engine room at least 60 x 32 feet, three stories high.
Still house at least 60 x 48 feet, three stories high.

The foregoing buildings, as far as practicable, to be fire proof, with main walls constructed of brick, stone or cement concrete; also lime storage house, charcoal storage house and all necessary and proper sheds, closets and storerooms, and to place and install therein all necessary boilers, steam engines and other motive power, machinery and appliances required in the efficient equipment of a plant for carrying on said industry, and to install the most modern and best available appliances for conveying freight from the harbor and railway to the factory.

2. To expend before the first day of September, 1910; (a) in the construction of the said buildings; (b) in the erection of the plant and machinery in connection therewith for the purpose of the said factory, the sum of thirty thousand dollars (\$30,000) as shewn by the documents, vouchers, receipted bills or invoices for the said buildings, machinery and plant, which shall be produced for inspection by the Corporation's Solicitor or other agent.

3. To erect said buildings, have plant and machinery installed, and have same operated as a permanent going concern with at least thirty employees actively engaged for at least thirty days before the first day of October, 1910.

4. To employ at least thirty employees for three hundred days in each year, and to operate and maintain the said factory continuously until December 31st, 1924, with at least the said number of employees, except in the case of strike, fire, or other casualties over which the said Applicants shall have no control.

5. To repay the said Corporation the said loan of ten thousand dollars (\$10,000) in ten equal annual instalments of one thousand dollars, (\$1,000) the first of such instalments to become due and payable on the second anniversary of the date of advance or payment to the Applicants of the said sum of ten thousand dollars, and the remaining instalments annually thereafter on the anniversary of such date until the whole said principal amount is repaid, and pay interest on any arrears of principal at five per cent. per annum.

6. To execute as security for said loan in favor of the Corporation a first mortgage of the leasehold interest in the lands hereinafter mentioned, also of the buildings erected thereon, and the boilers, steam engines and other motive power, machinery and appliances and plant placed therein, and used in connection with said business free from all incumbrances, liens and charges, containing in addition to the usual statutory covenants, covenants on the part of the said Applicants to the following effect:

(a) That the said Company shall from and after the first day of September, 1910, and thereafter for a period of fifteen years, actively operate the said industry, and employ an average minimum number of thirty employees for at least three hundred days in the year, of whom at least twenty-five shall be males and shall be domiciled in the said Town of Thornbury, and shall pay annually
for

for wages to the said employees during each year approximately the sum of twelve thousand dollars, exclusive of management, office staff and traveller's salaries.

- (b) That the pay rolls of the said Applicants shall be at all times open to the inspection of such person or persons as may from time to time be appointed by the Municipal Council of the said Corporation to conduct such inspection.
- (c) That the said sum of ten thousand dollars shall be repayable as above mentioned.
- (d) That the said mortgage shall be given as security for the performance by the said Applicants of the several conditions herein contained.
- (e) That the said Applicants shall insure the buildings and all machinery and plant used in connection with the said industry for at least the amount repayable to the said Corporation with the loss (if any) payable to the Corporation of the Town of Thornbury as its interest may appear.
- (f) That if the said industry shall cease operations for an entire period of twelve months, or in the event of the said Applicants failing to employ in the said industry the number of employees above mentioned at any time during the currency of the said mortgage, the said sum of ten thousand dollars, or any part thereof, remaining unpaid to the said Corporation, and all costs of and incidental to the recovery thereof shall be forthwith payable to the said Corporation.

7. To enter into the covenants hereinafter mentioned in the lease to be granted by the Corporation.

8. The said Corporation agrees with the Applicants to execute a lease to the said Applicants of the lands and premises, described as follows: Commencing at a point on the northeast side of Bay street, midway between the northwest limit of Macauley street where it is intersected by Bay street, and the southeast limit of Mill street where it is intersected by Bay street; thence northwesterly along the northeast limit of Bay street to the southeast margin of the Beaver River in its present course; thence northeasterly along said margin of the Beaver River to the waters of the Georgian Bay; then southeasterly along the waters' edge of the Georgian Bay to a point midway between Mill street and Macauley street, opposite the place of beginning; then southwesterly parallel to Mill street to the place of beginning; and also the water lots in the Georgian Bay in front of the said described lands to a depth of sixteen feet of water; and to grant to the Applicants the right to erect on the lands north of Bay street, between said River and Thornbury harbor, restricted to a frontage on said harbor of 150 feet in length from north to south, beginning 150 feet north of Bay street and running northerly, all necessary trestle work, erections and appliances and a bridge over said River for the convenient handling of freight from the harbor to the factory, and the right to use the waters of the said River, if necessary, for industrial purposes on said lands; subject to the provisions of the Act passed in the Sixth year of His Majesty's reign, chaptered ninety-eight, and intituled, "An Act respecting the Town of Thornbury and the Township of Collingwood" for the term of twenty years, from the first day of June, 1909, with proviso for renewals of the said lease for further periods of twenty years so long as the proposed industry continues in operation to the extent hereinbefore mentioned at a nominal rental of one dollar per year, which said lease shall be made in pursuance of the Act respecting short forms of leases, and shall

contain

contain the following Statutory covenants on the part of the Lessees and other provisoes as follows: To pay rent—And to pay taxes—And to repair—And to keep up fences—And that the Lessors may enter and view state of repair—And that the Lessees will repair according to notice—And will not assign or sub-let, except to a Company incorporated as hereinafter in clause "16" mentioned, without leave—And will not carry on any business that shall be deemed a nuisance on the said premises—And that they will leave the premises in good repair—And also that if the term thereby granted shall be at any time seized in execution or attachment by any creditor of the Lessees or their assigns, or if the said Lessees or their assigns make any assignment for the benefit of creditors, or becoming bankrupt or insolvent shall take the benefit of any Act that may be in force for bankrupt or insolvent debtors, or if any winding up proceedings be instituted against the said Lessees or their assigns the said terms shall immediately become forfeited and void. Proviso for re-entry by the Lessors on non-payment of rent or on non-performance of covenants. And further proviso, that in case the said premises become vacant and unoccupied for an entire period of twelve months, or in case the said industry shall cease operations for an entire period of twelve months, it shall be lawful for the Lessors at any time thereafter, into and upon the said demised premises or any part thereof in the name of the whole, to re-enter, and the same to have again, re-possess and enjoy together with all buildings and other improvements which may have been placed thereon.

9. The Corporation agrees to pay to the said Applicants the said sum of ten thousand dollars (\$10,000) by way of loan on the afore-said terms as soon as the said lease is executed, buildings are erected, plant installed, mortgage executed and delivered, insurance effected, and plant shall have been in operation for thirty days, with thirty employees engaged.

10. The Corporation agrees to pass a By-law closing and stopping up all that portion of Mill street, northeast of Bay street, and to include the same in the said lease as part of the demised lands.

11. The Corporation also agrees to conditionally pass a By-law to ratify the foregoing provisions of this Agreement and submit same to the electors for approval with as little delay as possible, and if so approved to finally pass said By-law.

12. The Corporation also agrees to apply for any special legislation or private Acts of the Provincial Legislature that may be required or necessary to authorize or validate the said By-law and this Agreement.

13. And it is understood and agreed that this Agreement shall not become operative and binding upon the parties hereto, unless, and until the assent of the electors shall have been obtained to the passing of such By-law, and the same shall have become valid and binding upon the Corporation of the Town of Thornbury.

14. It is further agreed by the said Applicants that in the event of the said By-law receiving the assent of the ratepayers, and being ratified and made valid by the necessary legislation as aforesaid, and the Applicants failing within six months thereafter to commence and proceed with the erection of the said buildings, then the Applicants shall reimburse the Corporation to the extent of seventy-five dollars for any sums of money that the said Corporation may have paid out in connection with the preparation of this Agreement and the submitting of said By-law to the said ratepayers.

15. The Applicants shall not transfer or assign their rights under the Agreement except to an incorporated Company with a capital of one hundred and fifty thousand dollars (\$150,000) or thereabouts, to be known as "The Thornbury Transportation and Reduction Company."

16. It is further understood and agreed that the Applicants will purchase, or charter and operate as the exigencies of their business may in their discretion require, at least one steamship of 400 to 700 tons capacity, costing approximately \$75,000, to be operated in connection with the business and general lake traffic.

17. It is hereby declared and agreed that these presents and everything herein contained shall respectively enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, assigns and successors, respectively.

In witness whereof, the said parties hereto have hereunto set their hands and seals; and the Corporation have caused the Mayor and Clerk of the Corporation to set their hands, and the seal of the Corporation has been affixed the day and year first above written.

Signed, sealed and delivered by
the Applicants in the presence of

GEO. G. ALBERY,
Solicitor.

And by the Mayor and Clerk
of the Corporation in the presence of

T. H. DYBE,
Solicitor.

C. A. FARRAR. [L.S.]

GEO. H. DAVEY. [L.S.]

E. E. SHORTELL [L.S.]

The Corporation of the Town of
Thornbury by

S. McCALLUM,
Mayor.

EDWARD ROBEK,
Clerk.

[Corporation Seal.]

CHAPTER 135.

An Act respecting the City of Toronto.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Corporation of the City of Toronto has, by petition, prayed for special legislation in respect of the several matters hereinafter set forth; and whereas doubts have arisen as to the power of the Ontario Railway and Municipal Board to make an Order dated the 11th day of March, 1909, annexing certain lands to the City, and it is deemed expedient to remove the said doubts and to confirm the said Order; and whereas the Corporation desires to construct railway tracks or sidings to manufacturing industries in the neighbourhood of Ashbridge's Bay upon lands now or heretofore belonging to the said Corporation and to be enabled to expropriate lands necessary therefor; and whereas to enable the said Corporation more readily and profitably to dispose of debentures issued thereunder, it is desirable that the by-laws set out and referred to in Schedule "B" should be confirmed; and whereas it is desirable that the said Corporation should have power to construct a system of underground railways; and whereas pursuant to section 6 of an Act passed in the ninth year of the reign of His Majesty King Edward the Seventh, Chaptered 94, the question, "Are you in favour of electing the Board of Education by Wards?" was voted on at the Municipal Elections held in the said City on the 1st day of January, 1910, and 14,411 votes were cast in favour of the said question and 13,268 votes were cast against the said question; and whereas doubts exist as to the result of the said vote; and whereas it is expedient to remove such doubts and to declare the effect of the said vote; and whereas it is expedient to grant the prayer of the said petition:

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Power to borrow \$12,000 for accommodation of

1. The Council of the said City may expend money for the purpose of defraying the cost of providing additional accommodation

accommodation for casuats at the House of Industry, and, for such purpose, may, without submitting the same to the electors qualified to vote on by-laws for the creation of debts, pass a by-law or by-laws to authorize the issue of "City of Toronto Consolidated Loan Debentures" to such amount as may be required to raise the sum of \$12,000.

casuats at
House of
Industry.

2. The Council of the said City may grant to the National Battlefields Association the sum of \$5,000.

Grant of
\$5,000 to
National
Battlefields
Association.

3. The Order of "The Ontario Railway and Municipal Board," dated the 11th day of March, 1909, set out as Schedule "A" hereto, annexing to the said City the land described therein lying between the former Town of East Toronto and the former easterly boundary of the said City, and also lands lying north of Danforth Avenue, as described in the said Order, is validated and confirmed.

Order of Ont.
Ry. and
Municipal
Board of 11th
March, 1909,
annexing land
to City
confirmed.

4. Section 5 of the Act passed in the sixth year of the reign of His Majesty King Edward the Seventh, Chaptered 99, is amended by striking out the last two lines thereof and substituting therefor the words following: "of and may construct on lands now or heretofore belonging to the said Corporation in the said neighbourhood or on any street in such lands a railway track or tracks to provide sidings and other railway facilities for manufacturing industries, and the said Corporation may acquire all lands necessary for the said purpose, with or without the consent of the owners thereof, upon making due compensation therefor."

Construction
of railway
sidings to
manufacturing
industries and
expropriation
of lands for
such purpose.

Provided that nothing herein contained shall affect the rights of parties in any litigation now pending or deprive any person of riparian rights, if any, in land not expropriated.

5. The said Corporation is hereby authorized to issue debentures from time to time within five years from the passing of this Act for such sum or sums as the Council may deem necessary, but not exceeding in any one year half a mill on the dollar on the assessed value of all the rateable property in the said City in such year according to the last revised assessment roll, for the purpose of purchasing lands for parks and playgrounds in the City or within one mile of the limits thereof, without submitting the by-law or by-laws for the same to the ratepayers entitled to vote on money by-laws, and if debentures to the amount of half a mill on the dollar on such assessed value are not issued, or the proceeds thereof in any one or more years not expended, then the amount not issued or the sum not expended in any such year or years may be issued or expended in any subsequent year or years.

Issue of
debentures
for parks and
playgrounds.

Certain by-laws confirmed.

6. The by-laws of the Corporation of the City of Toronto specified in Schedule "B" hereto, and all debentures issued or to be issued thereunder, and all assessments made or to be made, and all rates levied or to be levied for the payment thereof, are validated and confirmed, and the said Corporation is declared to have had power to pass, issue and levy the same.

Constitution of Board of Education.

7. To remove doubts it is declared that the question, "Are you in favour of electing the Board of Education by Wards?" submitted to a vote of the persons qualified to vote for public school trustees on the 1st day of January, 1910, shall be taken to have been answered in the affirmative by a sufficient number of persons to comply with subsection 2 of section 6 of *The Boards of Education Act*, and all members of the Board of Education for the City of Toronto shall cease to hold office on the 31st day of December, 1910, and thereafter the Board shall consist of two members to be elected in each Ward of such City and two members who shall be appointed by the Separate School Board.

9 Edw. VII.
c. 94.

Agreement for improvement of certain roads outside of City.

8. The Corporation of the City of Toronto may enter into an agreement with the County of York or any municipality in the County of York for the improvement of any main road or highway leading into the City of Toronto within a radius of twenty miles outside the said City, and the said Corporation may expend money for such purpose.

Construction of underground railways.

9. The Corporation of the City of Toronto may construct, build, maintain and operate a system of underground railways for the carriage and transportation of passengers and freight, and may acquire any lands necessary for the construction and operation thereof, with or without the consent of the owners thereof, upon making due compensation under the provisions of *The Municipal Act* for all lands so taken or injuriously affected by reason of the construction of the Railway hereby authorized or by the exercise of the powers hereby conferred, and upon making compensation also for damages, if any, suffered by any Railway Company by the work of actual construction of such system to the working of the Railway of any such Company and the works connected therewith. Provided, however, that such damages shall not include any damages or compensation from which, under any agreement, the said City is exempt or any damages by reason of competition with such other Railway Company.

Power to pass by-law for grant of \$200,000 to the Toronto General Hospital, and for expending \$50,000 on extension of Christopher St.

10. The Council of the said City may pass by-laws for making a grant of \$200,000 to the Toronto General Hospital and for expending the sum of \$50,000 to acquire land for the extension of Christopher Street.

11. For the purposes mentioned in sections 1 and 5 the said Council may, without the assent of the ratepayers qualified to vote on by-laws for the creation of debts, and for the purposes mentioned in sections 9 and 10, or any of them, the said Council may, with the assent of such ratepayers, obtained at the annual municipal elections, pass by-laws for the issue of "City of Toronto Consolidated Loan Debentures," payable in this Province or elsewhere, in sums of not less than one hundred dollars each, which may be payable at any time within forty years from the respective dates thereof, with interest thereon in the meantime at a rate not exceeding four per cent. per annum payable half yearly, and for the purpose of redeeming such debentures and paying the interest thereunder the Council of the Corporation of the City of Toronto may in any by-law or by-laws to be passed authorizing any such loan or loans, or any part thereof, and the issue of debentures therefor, impose a rate per annum upon all rateable property in the said municipality over and above and in addition to all other rates to be levied in each year, which shall be sufficient over and above the interest payable on such debentures to form a sinking fund to pay off the said debentures at maturity.

Issue of
debentures.

12. Section 10 of the Act passed in the eighth year of the reign of His Majesty King Edward the Seventh, Chapter 112, is amended by adding after the words "Conduit Street," in the fifth line, the words "and on Bloor Street between Dundas Street and the north-west branch of the Garrison Creek Sewer."

S. Edw. VII.
c. 112, s. 10
amended.

Power to re-
mit special
rates for cer-
tain sewers.

13. Wherever under the provisions of this Act the said Corporation is empowered to acquire lands without the consent of the owners thereof, the compensation to be paid therefor shall be ascertained and determined by arbitration under the provisions of *The Municipal Act*.

Compensation
for lands
taken.

S. Edw. VII.
c. 19.

SCHEDULE "A."

THE ONTARIO RAILWAY AND MUNICIPAL BOARD.

Thursday, the eleventh day of March, 1909.

In the matter of the application for annexation to the City of Toronto of the portion of the Township of York, hereinafter described, namely:

Commencing at a point in the westerly limit of the former Town of East Toronto distant two hundred and fifty feet measured north-
erly from the northerly limit of Danforth Avenue; thence westerly

parallel

parallel with the said northerly limit of Danforth Avenue to the easterly limit of Leslie Street; thence northerly along said easterly limit of Leslie Street one thousand and ninety feet more or less to the production easterly of the line between lots Eleven and Twelve in the Second Concession from the Bay in the Township of York; thence westerly along said production easterly and along said line between lots Eleven and Twelve and along the line between lots Numbers Nineteen and Twenty in the second Concession to the easterly limit of the City of Toronto; thence southerly, easterly, southerly and easterly following the present limits of the City of Toronto to the westerly limit of the former Town of East Toronto aforesaid; thence northerly, westerly, northwesterly, westerly, northerly, westerly, south-westerly and northerly following the limits of the said Town of East Toronto to the place of beginning.

Upon reading the Resolution of the Council of the Corporation of the City of Toronto, passed on the 23rd day of November, 1908, the petitions of Ernest Hatfield and others and of John Webber and others; Upon hearing the evidence adduced and what was alleged by Counsel on behalf of the Applicants, the Corporation of the City of Toronto, the Corporation of the Township of York and the Toronto Golf Club, Limited;

This Board doth order and proclaim that the lands and premises above described be and the same are hereby annexed to the City of Toronto and added to Ward No. 1 thereof, the said annexation to take effect on the fifteenth day of December, 1909, upon the terms and conditions following, that is to say:

(a) The lands so added, but not any new buildings or improvements erected or placed thereon, shall remain for a period of five years from the first day of January, 1910, at the same assessed value as such lands were assessed in the Township of York for the year 1909, but any buildings erected and improvements made on any of the lands so added and not included in the assessment for the said year, and also all such lands as may hereafter be sold, shall be assessed as other lands and buildings under the provisions of the Assessment Act. Provided that any buildings or improvements omitted from the assessment roll for 1909 shall be assessed on the basis of value adopted by the Township of York in similar cases.

Provided also that any transfer of the lands now occupied by the Toronto Golf Association to a new Corporation for golfing purposes or to Trustees for such Association or Corporation shall not be deemed a sale hereunder.

(b) The taxes and rates imposed for the year 1909 or any prior year upon any of the lands included in the territory hereby annexed, or upon any ratepayer therein, which shall not have been collected before 15th December, 1909, shall be collected by and belong to the Township of York, and all right to collect the same, including distress for non-payment, or if necessary, the sale of the said lands or any of them, shall remain in the said Township as though this Order had not been made, and all adjustments between the City of Toronto and the Township of York shall be made as of the first day of January, 1910.

(c) The said City of Toronto may at any time in the year 1910, prior to the passing of a by-law striking the rate of taxation for the said year, assess (subject to the rights of appeal provided by the Assessment Act) the lands included in the territory hereby annexed and the owners and occupants thereof for the year 1910 as though the same had been made in the year 1909, and the same shall be assessed (except in the case of new buildings or improvements erected or placed thereon, and lands sold as aforesaid) at the same assessed value respectively as they were assessed by the Township of York for the year 1909; but new buildings erected and improvements made upon any of the lands included in the territory hereby annexed after the assessment for the said Township for 1909 was made, and the lands hereafter sold shall, subject to the provisoes in clause (a) be assessed for their value as authorized by *The Assessment Act*, and the owners and occupiers shall be notified of such assessment as required by *The Assessment Act*, and shall have the same right to appeal to the Court of Revision and County Judge

as is provided therein, and the assessment so fixed shall be the one upon which the taxes for the year 1910 upon said lands shall be rated and imposed.

(d) Any By-laws of the Township of York granting exemption from taxation or fixing assessments within the territory hereby annexed shall not be affected by this Order, or the annexation hereby directed, and such By-laws shall remain in as full force and effect as if this Order had not been made.

(e) Leave is reserved to the applicants on notice to the City of Toronto to apply to the Board before the first day of December, 1909, to reduce the depth of any part of the frontage on the north side of Danforth Avenue east of Leslie Street.

(Sgd.) JAMES LEITCH,

*Chairman of the Ontario Railway and
Municipal Board.*

SCHEDULE "B."

No. of
By-law.

Nature of Work under By-law.

	When passed by Council.	Total cost of work.	Amount to be borne by City.	Amount to be borne by rate- payers.	Period of payment.	Rate of in- terest
5227 General Consolidated Loan Debentures for the extension of Wilton Avenue across the River Don by means of a high level bridge	Jan. 25th, 1909	\$215,000 00	\$215,000 00	.....	39	4
5238 General Consolidated Loan Debentures to make grants to certain hospitals for building purposes	Feb. 8th, 1909	200,000 00	200,000 00	.....	39	4
5272 Local Improvement Debentures to defray the ratepayers' share of the cost of certain concrete sidewalks constructed in the year 1908	Apr. 13th, 1909	285,016 18	50,367 48	\$234,648.70	10	4
5273 Local Improvement Debentures to defray the ratepayers' share of the cost of certain brick sidewalks constructed in the year 1908	"	1,271 00	239 74	1,031 26	10	4
5274 Local Improvement Debentures to defray the ratepayers' share of the cost of certain plank sidewalks constructed in the year 1908	"	1,994 01	359 51	1,634 50	3	4
5275 Local Improvement Debentures to defray the ratepayers' share of the cost of certain concrete curbs constructed in the year 1908	"	30,487 36	5,780 67	24,706 69	10	4
5276 Local Improvement Debentures to defray the ratepayers' share of the cost of certain sewers constructed in the year 1908	"	82,994 02	18,205 15	64,788 87	10	4
5277 Local Improvement Debentures to defray the ratepayers' share of the cost of certain asphalt pavements constructed in the year 1908	"	561,830 19	147,091 57	414,738 62	10	4

SCHEDULE "B."—Continued.

No. of By-law.	Nature of Work under By-law.	When passed by Council.	Total cost of work.	Amount to be borne by City.	Amount to be borne by rate- payers.	Period of payment. of in- terest.
5278	Local Improvement Debentures to defray the ratepayers' share of the cost of certain asphalt block pavements constructed in the year 1908	Apr. 13th, 1909	\$32,365 64	\$13,412 64	\$18,953 00	10 4
5279	Local Improvement Debentures to defray the ratepayers' share of the cost of certain vitrified block pavements constructed in the year 1908	"	43,772 64	18,475 41	25,297 23	10 4
5280	Local Improvement Debentures to defray the ratepayers' share of the cost of certain bitulithic pavements constructed in the year 1908	"	86,382 97	20,142 89	66,240 08	10 4
5281	Local Improvement Debentures to defray the ratepayers' share of the cost of certain concrete pavements constructed in the year 1908	"	9,234 48	1,844 88	7,389 60	10 4
5282	Local Improvement Debentures to defray the ratepayers' share of the cost of certain brick pavements constructed in the year 1908	"	43,528 96	8,576 13	34,952 83	10 4
5283	Local Improvement Debentures to defray the ratepayers' share of the cost of certain macadam pavements constructed in the year 1908	"	3,665 64	837 02	2,828 62	various 4
5284	Local Improvement Debentures to defray the ratepayers' share of the cost of grading certain streets in 1908	"	11,589 42	2,909 65	8,679 77	5 4
5285	Cedar block pavement, with concrete curbing, on Esplanade Street, between Yonge Street and Scott Street	"	3,984 97	1,649 67	2,335 30	8 4
5291	Opening of a street from Woodlawn Avenue northerly to Farnham Avenue	Apr. 26th, 1909	2,939 43	.....	2,939 43	10 4
5292	Widening of Shaw Place	"	538 15	.....	538 15	3 4

SCHEDULE "B."—Continued.

No. of By-law.	Nature of Work under By-law.	When passed by Council.	Total cost of work.	Amount to be borne by City.	Amount to be borne by rate-payers.	Period of payment.	Rate of interest.
5293	Extension of Armstrong Avenue westerly to Emerson Avenue	April 26th, 1909	\$1,094 59	.....	\$1,095 59	3	4
5294	Extension of Radford Street westerly to connect with that portion of Radford Street immediately east of Indian Road	"	1,749 53	.....	1,749 53	10	4
5295	Opening of a lane between Lansdowne Avenue and St. Clarens Avenue	"	316 56	.....	316 56	10	4
5296	Opening of a lane between Palmerston Avenue and Euclid Avenue	"	565 73	.....	565 73	5	4
5297	Opening of a lane between Margueretta Street and St. Clarens Avenue	"	1,749 62	.....	1,749 62	10	4
5298	Sewage system west of Roncesvalles Avenue and south of Marmaduke Street	"	30,055 64	.....	30,055 64	10	4
5299	Sewage system west of Roncesvalles Avenue and north of Marmaduke Street	"	12,788 37	.....	12,788 37	10	4
5300	Sewer on Glen Road and a portion of Maple Avenue	"	14,765 79	\$829 42	13,936 37	10	4
5301	Sewage disposal system east of Woodbine Avenue	"	95,482 24	32,921 24	62,561 00	10	4
5302	General Consolidated Loan Debentures for enlarging Kent Public School	May 10th, 1909	80,000 00	80,000 00	.....	39	4
5322	Local Improvement Debentures consolidating broken amounts, being the ratepayers' share named in certain Local Improvement By-laws	June 14th, 1909	1,116,649 66	.....	1,116,649 66	various	4
5323	Local Improvement Debentures consolidating the City's proportion of the amounts named in certain Local Improvement By-laws	"	352,783 04	352,783 04	.....	various	4
5332	General Consolidated Loan Debentures for improving and extending the Water Works	June 28th, 1909	466,000 00	466,000 00	.....	39	4
5338	General Consolidated Loan Debentures for constructing, reconstructing and enlarging certain public schools and purchasing and enlarging school sites	July 16th, 1909	250,000 00	250,000 00	.....	39	4

CHAPTER 136.

An Act to amend an Act respecting the City of Windsor.

Assented to 19th March, 1910.

WHEREAS The Municipal Corporation of the City of Windsor has by its petition prayed that the Act passed in the seventh year of His Majesty's reign, Chaptered 97, by which the city was authorized to grant aid by way of bonus to manufacturers on the conditions therein set out, should be amended as hereinafter provided; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 1 of the Act passed in the seventh year of His Majesty's Reign and Chaptered 97 is repealed and the following substituted therefor.

7 Edw. VII.,
c. 97, s. 1
repealed.

1. Notwithstanding anything contained in *The Consolidated Municipal Act, 1903*, the Council of the City of Windsor may, subject to the provisions hereinafter contained by a three-fourths vote of all the members thereof, pass by-laws for granting aid by way of bonus for the promotion of manufactures within the limits of the municipality to such person or body corporate and in respect of such branch of industry as the council may determine upon, but to render valid any such by-law the assent shall be necessary of two-thirds of all the duly qualified rate-payers who vote on such by-law.

Power to
pass bonus
by-laws.

2. Section 3 of the said Act is repealed.

7 Edw. VII.,
c. 97, s. 3,
repealed.

3. Section 8 of the said Act is amended by striking out the word "Majority" in the second line thereof and inserting in place thereof the words "two-thirds."

7 Edw. VII.,
c. 97, s. 8
amended.

CHAPTER

CHAPTER 137.

An Act to amend An Act respecting the Township of York.

Assented to 19th March, 1910.

9 Edw. VII.,
c. 128, s. 1,
subs. 1,
amended.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Time for
expropriation
of certain
lands
extended.

1. Subsection 1 of section 1 of Chapter 128 of the Acts passed in the ninth year of His Majesty's reign is amended by striking out in the second and third lines the words "the passing of this Act," and inserting in lieu thereof the words "the 13th April, 1910."

CHAPTER 138.

An Act to amend the Act, incorporating The Fort Erie Ferry Railway Company and to change the name thereof to The Buffalo and Fort Erie Ferry and Railway Company.

Assented to 19th March, 1910.

WHEREAS The Fort Erie Ferry Railway Company Preamble. was incorporated by an Act passed in the 50th year of the reign of Her late Majesty, Queen Victoria, Chaptered 76; and whereas the said Act of incorporation was amended by an Act passed in the 54th year of the reign of Her late Majesty, Queen Victoria, Chaptered 86; and whereas the said Act of incorporation was further amended by an Act passed in the 58th year of the reign of Her late Majesty, Queen Victoria, Chaptered 96; and whereas the said Act of incorporation was further amended by an Act passed in the 60th year of the reign of Her late Majesty, Queen Victoria, Chaptered 85; and whereas the said Act of incorporation was further amended by the Acts passed in the 63rd year of the reign of Her late Majesty, Queen Victoria, Chaptered 15 and Chaptered 111; and whereas the said Act of incorporation was further amended by an Act passed in the 2nd year of His Majesty's reign, Chaptered 73; and whereas the said Act of incorporation was further amended by an Act passed in the 8th year of His Majesty's reign, Chaptered 124; and whereas the said The Fort Erie Ferry Railway Company has by its petition prayed that an Act may be passed changing the name of the said Company to "The Buffalo and Fort Erie Ferry and Railway Company," and permitting and enabling the said company to take or acquire and to hold the assets, rights, shares and securities and guarantee the obligations of the International Ferry Company, The Maple Leaf Amusement Company, and The Niagara Equipment & Concession Company, or any other corporation or person carrying on business with similar objects, and to authorize, approve, ratify and confirm a certain indenture of mortgage securing bonds of the said company for the sum of \$300,000.00, and to increase the capital stock

stock of the Company to the sum of \$500,000; and to acquire and hold lands for park and pleasure grounds and to dispose of the same; and whereas it is expedient to grant the prayer of the said petition:

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Continuation
of old Acts.

1. That the said Act of incorporation as amended by the above recited Acts be continued and shall have full force and effect save as amended by this Act.

Name of Cor-
poration
changed.

2. That the name of the said The Fort Erie Ferry Railway Company be, and the same is hereby changed to "The Buffalo and Fort Erie Ferry and Railway Company," hereinafter called "the Company," but such change of name shall not in any way impair, alter or affect the rights or liabilities of The Fort Erie Ferry Railway Company, nor in any wise affect any suit or proceeding now pending or judgment existing either by or in favour of or against the said The Fort Erie Ferry Railway Company, which notwithstanding such change in the name may be prosecuted, continued, completed and enforced as if this Act had not been passed.

All former
powers con-
tinued.

3. That the said The Buffalo and Fort Erie Ferry and Railway Company shall continue to have all the powers set out in the said Act and the amendments thereto, save as hereby amended.

Power to con-
struct rail-
way and
branch lines.

4. That the said company has had and shall have and may exercise all powers conferred by the said Acts to construct, operate and maintain the railway from time to time, constructed under the authority of the hereinbefore recited Acts, in the Townships of Bertie, Humberstone and Willoughby, and in the municipalities of the Villages of Fort Erie, Port Colborne, Ridgeway and Chippawa.

Company to
have powers
set out in
section 197 of
The Ontario
Railway Act,
1906.

5. Notwithstanding that the said railway and undertaking is at present operated by steam power, the said company shall have and possess all the powers and privileges set out in section 197 of *The Ontario Railway Act, 1906*.

6 Edw. vii., c. 30

Power to
establish
parks.

6. The said company is hereby authorized and empowered to acquire, purchase, lease and hold for any estate in the same, and when acquired to alienate or mortgage any land or premises intended and necessary or suitable for park

or pleasure grounds, and to establish and lay out such lands as parks and pleasure grounds, and to charge admission thereto, and to make and enter into any agreement or arrangement with the Municipal Corporations of the Municipalities wherein the same are situated or any of the said municipalities in respect thereto, subject, however, to the power of the said municipality or municipalities to pass by-laws to regulate the use of public parks and pleasure grounds.

7. It shall and may be lawful for the company to purchase, build, complete, fit out, and charter, sell and dispose of, work and control, and keep in repair vessels, propelled by steam, electricity, gasoline or other motive power, to ply on the lakes, rivers, and canals of this Province in connection with the said railway, and to make arrangements and agreements with steamboat and vessel proprietors, by chartering or otherwise, to ply on the said lakes, rivers and canals in connection with the said railway.

Power to purchase and work vessels in connection with the railway.

8. The company shall have power to enter into partnership or to make any arrangement for sharing profits, union of interest, co-operation, joint adventure, reciprocal concession, or otherwise, or to take or acquire and to hold and dispose of the assets, rights, shares and securities, or any of them, and to loan money to and guarantee the contracts of International Ferry Company, The Maple Leaf Amusement Company, The Niagara Equipment & Concession Company, or any other person or company carrying on a business with similar objects, or carrying on or engaged in or having power to carry on or engage in any business or transaction capable of being conducted so as directly or indirectly* to benefit the company.

Power to hold shares and guarantee obligations of other Companies.

9. The capital stock of the company shall be \$500,000.

Capital Stock.

10. It shall be competent for the directors of the said company to issue as paid up stock any ordinary stock of the company, and allot and pay the same for right of way or other real estate which the company is authorized by this Act to acquire, and for plant, vessels, rolling stock or material, or erections of any kind.

Certain payments allowed to be made in stock.

11. The annual meeting of the shareholders of the said company shall be held at their head office, in the said Village of Fort Erie, or in such other place, either within or without Ontario, and on such days and at such hours as may be directed by the by-laws of the company, and public notice thereof shall be given at least four weeks previously in the Ontario Gazette, and in at least one newspaper published in the County of Welland, during the four weeks preceding the

Annual Meetings.

week

week in which such meeting is to be held, and special general meetings of the shareholders of the said company may be held at such places in or out of Ontario, and at such times, and in such manner as may be provided by the by-laws of the company, upon such notice as is provided by this section.

Mortgage to
secure bonds
confirmed.

12. The Deed of Mortgage securing an issue of bonds of the said company for the sum of \$300,000, as set out in Schedule A to this Act, dated the 1st day of April, 1910, in favour of the Commonwealth Trust Company, as Trustees for the bond-holders and the bonds issued, or from time to time to be issued, as therein provided, are and each of them is hereby authorized, ratified and confirmed, and upon the execution, delivery and issue thereof, respectively, the same shall be valid and binding upon the company, and the said Railway Company shall thereupon carry out and fulfil the obligations contained in the said mortgage and bonds according to the true intent and meaning thereof.

No discrimina-
tion of tolls.

13. All tolls charged to passengers residing in Canada, or upon traffic originating in Ontario, whether upon the railway or upon any Ferry under the control of the Company shall always under substantially similar circumstances and conditions, in respect of traffic of the same description, be as low as tolls charged to passengers from or traffic originating in the United States of America.

Jurisdiction of
Ontario Rail-
way and
Municipal
Board upon
application.

14. The Ontario Railway and Municipal Board shall have full jurisdiction to inquire into, hear and determine any application by or on behalf of any party interested, complaining that the said Company has failed to do any act, matter or thing required to be done by this Act. And the Company consents that the said Board may order and shall have full jurisdiction to require the Company to do forthwith or within or at any specified time any act, matter or thing which said Company is required to do under this Act and the said Board shall with respect thereto have all the powers conferred by *The Ontario Railway and Municipal Board Act, 1906*.

6 Edw. VII.
c. 31.

SCHEDULE "A"

(Section 12)

This indenture made the First day of April, 1910
Between:

The Buffalo and Fort Erie Ferry and Railway Company of the
First Part, and

The Commonwealth Trust Company, a Corporation existing
under the laws of the State of New York and having its
head office in the City of Buffalo, hereinafter called the
"Trustee," of the Second Part.

Whereas

Whereas The Fort Erie Ferry Railway Company was duly incor-^{Incorporation.}porated by an Act of the Legislature of the Province of Ontario passed in the fiftieth year of the reign of Her late Majesty Queen Victoria, chaptered 76; and whereas the said Act of incorporation was amended by an Act passed in the fifty-fourth year of the reign of Her late Majesty Queen Victoria, chaptered 86; and whereas the said Act of incorporation was further amended by an Act passed in the fifty-eighth year of the reign of Her late Majesty Queen Victoria, chaptered 96; and whereas the said Act of incorporation was further amended by an Act passed in the sixtieth year of the reign of Her late Majesty Queen Victoria, chaptered 85; and whereas the said Act of incorporation was further amended by the Acts passed in the sixty-third year of the reign of Her late Majesty Queen Victoria, chaptered 15 and chaptered 111; and whereas the said Act of incorporation was further amended by an Act passed in the second year of His Majesty's reign, chaptered 73; and whereas the said Act of Incorporation was further amended by an Act passed in the eighth year of His Majesty's reign, chaptered 124;

And whereas under and in pursuance of the powers contained in the said Act and the amendments thereto, the said Company has^{Acquisition of Properties.} acquired certain property both real and personal.

And whereas the said Company has petitioned for an Act amend-^{Petition for new Act.}ing the said Act of Incorporation by changing the name of the said Company from that of the Fort Erie Ferry Railway Company to that of the Buffalo and Fort Erie Ferry and Railway Company by extending and increasing the powers of the said Company by permitting and enabling the said Company to acquire and hold stock in The International Ferry Company, The Maple Leaf Amusement Company, The Niagara Equipment and Concession Company, and other Companies and to acquire lands;

And whereas all necessary and requisite by-laws and resolutions^{By-laws and resolutions duly passed.} of the Directors and Shareholders of the Company have been duly passed so as to make the issue of the bonds hereby secured and the execution of these presents, and any other assurances ancillary thereto, legal and valid and in accordance with the requirements of the Statutes relating to the Company and of all other statutes and laws in that behalf;

NOW THEREFORE THIS INDENTURE WITNESSETH.

1. That for the purpose of securing payment of the bonds and interest hereinafter mentioned, and for divers considerations in that^{Conveyance of present and future undertakings.} behalf received by the Company, the Company doth hereby, as beneficial owner, grant, assign, transfer, convey and mortgage unto the Trustee, its successors and assigns, in trust, all and singular its several present and future undertakings now made or in course of construction or hereafter to be constructed, together with all the properties, real or personal, tolls, income and sources of money, shares, rights, privileges and franchises, now owned, held or enjoyed by the Company or hereafter to be acquired, owned, held or enjoyed by it prior to the full payment and satisfaction of the whole of the bonds hereby secured, including, without in any way limiting the generality of the foregoing description, those set out in the Schedules hereto attached, marked "A" and "B". The said undertakings and all properties real or personal, both income and sources of money, shares, rights, privileges and purchases mentioned or described in the first paragraph are hereinafter referred to as the "Mortgaged premises."

2. The Trustee shall hold and stand possessed of all the present^{Habendum} and future property of the Company by these presents expressed to be granted, assigned, transferred, conveyed and mortgaged unto the said Trustee or agreed so to be, or which at any time hereafter may be granted, assigned, transferred, conveyed and mortgaged, in pursuance of the provisions hereof, upon the trusts and to and for the

Bonds
secured by
mortgage.

the ends, intents and purposes, and upon the conditions, covenants and agreements expressed in the following articles, namely:—

Article 1. The total amount of bonds hereby secured, and which may be issued in accordance with the terms hereof, is Three Hundred Thousand Dollars (\$300,000) the said bonds being dated the First day of April, 1910, the principal money being payable on the First day of April, 1935, with interest at the rate of six per cent. per annum, payable half yearly on the First days of October and April in each year during the currency of the bonds, (the interest being represented by coupons attached to the bonds) the payment of both principal and interest being at the office of the Trustee in the City of Buffalo. The said bonds shall be issued in denominations of Five Hundred Dollars (\$500), or any multiple thereof, and shall be in substantially the following form or to the like effect:

Form of
bond.

No.

\$500.00

PROVINCE OF ONTARIO.

THE BUFFALO AND FORT ERIE FERRY AND RAILWAY COMPANY.

Incorporated under Statutes of Ontario, 50 Victoria, Chapter 76, and amending Acts.

FIRST MORTGAGE BOND.

The Buffalo and Fort Erie Ferry and Railway Company, herein called the Company, hereby promises to pay to bearer, or if registered, to the registered holder hereof, Five Hundred Dollars (\$500.00) in gold coin or its equivalent on the First day of April, 1935, at the Head Office of the Commonwealth Trust Company in the City of Buffalo, with interest thereon in the meantime, payable at the same place half-yearly on the First days of October and April in each year at the rate of six per cent. per annum, upon presentation and surrender of the proper coupons hereto annexed.

This bond is one of a series not in the aggregate exceeding Three Hundred Thousand Dollars (\$300,000.00), each bond being of like date and for the sum of Five Hundred Dollars (\$500.00) or multiples thereof, and is secured by a Mortgage dated the First day of April, 1910, to The Commonwealth Trust Company therein called the Trustee, whereby the present and all future undertakings of the Company and all its real and personal property, present and future, are mortgaged in favor of the Trustee.

This bond shall not become obligatory on the Company until it shall have been certified by the Trustee.

This bond shall pass by delivery unless registered in the name of the owner in a book of the Company for that purpose to be kept in the office of the Trustee, such registry being noted on the Bond. After such registry no transfer shall be valid unless made in said book by the registered owner in person, or by his Attorney duly authorized in writing and similarly noted on the bond, but the same may be discharged from registry by a transfer thereof to bearer, and thereupon transferability by delivery shall be thereby restored; but this bond may again from time to time be registered or transferred to bearer as before. No such registration shall affect the negotiability of the coupons, which shall continue to be transferable by delivery.

Provisions of
mortgage in-
corporated in
bond.

This bond is subject to the terms of the said mortgage which is hereby referred to for description of the mortgaged premises and the nature and extent of the security, the rights of the holders of bonds secured by it and the terms and conditions upon which the said bonds are issued and which rights, terms and conditions are made a part of this bond. Under the provisions of the said Mortgage the Company may on the first day of April, 1915, or on any first day of October or April thereafter prior to the first day of April, 1935, redeem this bond by depositing with and paying to the said Trustee the principal money secured by the said Bond together with a bonus of five per cent.

In

In witness whereof The Buffalo and Fort Erie Ferry and Railway Company has caused its Corporate Seal to be affixed and these presents to be signed by its President and Secretary at Fort Erie this first day of April, 1910.

THE BUFFALO AND FORT ERIE FERRY AND
RAILWAY COMPANY.

.....
President.
.....
Secretary.

INTEREST COUPON.

No.
\$15.00.

The Buffalo and Fort Erie Ferry and Railway Company will pay to bearer, on the First day of , 19 , at the office of Commonwealth Trust Company in the City of Buffalo, Fifteen Dollars, half-year's interest on Bond Number .

.....
Secretary.

TRUSTEE'S CERTIFICATE.

This Bond is one of the series referred to in the Mortgage within mentioned.

COMMONWEALTH TRUST COMPANY. Trustee's certificate.

.....
Secretary.

Article 2. The signature of the Secretary of the said Company to each and every coupon attached to any of the said bonds, if engraved or lithographed, shall be and is hereby recognized as the proper signature of the Secretary of the said Company.

Article 3. The signatures of the President and Secretary for the time being of the said Company upon the said bonds and coupons Officers' signatures. to the full extent of Three Hundred Thousand Dollars (\$300,000.00), whether fully handed over to the Trustee or not, shall be the officers' signatures rendering the said bonds valid and binding upon the said Company, whether at the time of the actual sale, issue, pledge or delivery of the said bonds the said officers are the officers of the Company or not.

Article 4. All bonds hereby secured shall be payable to bearer, and negotiable and pass by delivery unless registered for the time being in the name of the owner thereof in the manner hereinafter provided; and the Company shall keep at the office of the Trustee or some other suitable office in Buffalo a bond register in which every holder of a bond shall be entitled to have his name and address and the number of the bond held by him entered, upon presenting at the office of the said Trustee a written statement of the said particulars and verifying his title to such bond by production thereof; and every registration of ownership shall be properly certified on the bond. After such registration of ownership of any such bond so certified thereon, no transfer shall be made or shall be valid except in writing, in a suitable transfer book to be kept by the Company at the said place of such transfers, signed by the party registered as the owner thereof for the time being or his legal representatives or his or their agent or attorney thereunto duly authorized. And the fact of every such transfer shall be entered upon the said last mentioned transfer book, so as to show the number of the bond transferred and the name and address of the transferee, unless any such transfer shall be to bearer, in which case it shall be so entered; and every such transfer shall be noted on the bond, and if the last transfer be to bearer, it shall restore to it transferability

by

by delivery; but every such bond shall be subject to successive registrations and transfers to bearer as aforesaid, at the option of each holder.

Notwithstanding registration the interest coupons shall continue to be payable to bearer. The Company and the Trustee shall not be bound to take notice of any trusts appearing on or referred to in the said bonds or otherwise with respect thereto, and may transfer the same on the direction of the person registered as the holder thereof whether named as trustee or otherwise as though that person were the beneficial owner thereof; all expense of registration and transfer of bonds shall be borne by the bondholders.

Bonds may be redeemed.

Article 5. (a) Every bond issued and secured hereby shall be subject to the conditions that the same may be redeemed by the Company, when not in default under any of the conditions herein contained on the First day of April, 1915, or on any First day of October or April thereafter prior to the First day of April, 1935, upon depositing with and paying to the said Trustee the principal money hereby secured together with a bonus of five per cent.

(b) The Company shall at least two months before the time at which any bonds are to be redeemed determine the number to be redeemed, and shall notify the Trustee thereof.

(c) The particular bonds to be redeemed on each occasion shall be determined by drawings to be made by the Trustee in the presence of a Notary Public resident in Buffalo, not less than forty-five days and not more than seventy-five days before the day upon which the bonds are to be redeemed. The Company shall have the right to have a representative present at such drawings.

(d) Forthwith after such drawing, notice shall be given to the holders of the bonds drawn for redemption as follows:—

(1) If the bonds drawn are registered, by registered letter addressed to the address of such holders appearing upon the registry book at least sixteen days before the date specified for redemption.

(2) If unregistered, then by notice published once a week for six successive weeks prior to the date specified for redemption in one newspaper published in the City of Buffalo.

(3) The numbers of the bonds from time to time drawn shall be recorded in a book kept for that purpose by the Trustee, which shall be open for the inspection of the holders of bonds at all times.

(4) The Company shall at least forty-five days before the day fixed for redemption deposit with the Trustee a sufficient sum to pay all the accrued interest, and also to pay the redemption price of the bonds.

(5) The bonds drawn for redemption shall cease to bear interest from the day fixed for redemption.

(6) Every bond redeemed pursuant to any drawing shall be cancelled and the Company shall not issue another bond in its place.

Bonds may be re-issued in certain cases.

Article 6. If any of the said bonds shall at any time be pledged by the Company for advances to the Company, or if any shall be sold and re-purchased by the Company other than under the power of redemption and cancellation hereinbefore contained, the Company shall have power to re-issue the said bonds, either by re-issuing the same bonds or by issuing other bonds in their place, and upon such re-issue, the person entitled to the bonds shall have the same rights and priorities as if the bonds had not been previously issued. The Company may also upon the payment of any loan for which all or any of the said bonds may be pledged, or upon the repurchase of any of the said bonds, cause the same to be transferred to a nominee, and such nominee shall have power to thereafter deal therewith in such manner as the Company shall direct, and any person acquiring said bonds from such nominee shall have the same rights and priorities as if the bonds had not been previously issued.

Possession until default.

Article 7. Unless and until this security shall become enforceable, and proceedings be taken to enforce the same, the Company shall be suffered and permitted to retain possession of and possess and manage, operate and enjoy all of the said mortgaged premises, and to make calls upon its unpaid capital stock and use the proceeds thereof for the purposes of its business, in the same manner and

with

with the same effect as if this mortgage deed had not been made, but subject nevertheless to the lien of these presents.

Article 8. Unless and until this security shall become enforceable, and proceedings be taken to enforce the same, the Company may collect and give discharges for dividends upon the stocks forming part of the mortgaged premises. The Trustee shall not collect, or be entitled to collect, except upon the request of the Company, any such dividends, and the Trustee shall at once pay over to the Company any such dividends should the same be received by the Trustee. Until the security hereby constituted shall become enforceable, and proceedings be taken to enforce the same, the Trustee shall exercise all voting rights upon the shares of stock forming part of the mortgaged premises in such manner as the Company may direct, and for that purpose the Trustee shall from time to time give to the nominee of the Company the necessary proxy to vote at all meetings of the stockholders.

Dividends from stocks to belong to company.

Article 9. Unless and until this security shall become enforceable, and proceedings be taken to enforce the same, the Company may from time to time change and rebuild the Merry-go-rounds and other amusement features in any of the Parks owned by the said Company, and may sell and dispose of the said amusement features free from the provisions of this mortgage, provided that in the case of such sale or other disposition the Company replace the amusement features so sold, or otherwise disposed of, with other amusement features of equal value, and that the value of the mortgaged premises be in no case decreased or diminished.

Company may change amusement features.

Article 10. Unless and until this security shall become enforceable, and proceedings be taken to enforce the same, the Trustee shall have power in its discretion, upon the written request of the Company, to convey by way of release or otherwise, to parties designated by the Company, any of the mortgaged premises covered hereby which, in the judgment of the Trustee, it has become inexpedient to hold or use for the purpose of the undertaking and business of the Company: provided however that in each case other property (which may consist of money or securities for money, lands, or buildings, or machinery, equipment or plant) of value equal to the value of the property released, shall be substituted for the released property and subjected to the lien of these presents, so that such release herefrom shall not in the opinion of the Trustee, injure the security hereby provided; and, provided further, that the Trustee shall have power to release herefrom, without substitution, any part of the mortgaged premises designated by the Company which, in the judgment of the Trustee, it has become unnecessary to hold or use for the purposes of the undertaking or business of the Company.

Release of part of mortgaged premises.

Article 11. If the Company or its assigns shall well and truly pay the bonds issued under these presents as required to be paid and all interest thereon according to the tenor and effect of the said bonds and coupons thereto attached, and shall well and truly keep and perform all things herein required to be kept and performed by the said Company according to the true intent and meaning of these presents, then, and in such case, the right, title and interest of the Trustee and its successors under the trusts hereby created, and the equity of the bondholders in the said property, shall cease and determine and become void without any release by the said Trustee, but it shall be the duty of the said Trustee, at the request and at the proper costs, charges and expenses of the Company, to re-convey the property to the Company by deed of release, otherwise these presents shall be and remain in full force and virtue.

Proviso for redemption.

Article 12. The Company for itself, its successors and assigns, promises, covenants and agrees to and with the said Trustee that it and they will duly pay the principal moneys and interest of the said bonds to the several holders thereof when and as the same shall become due and payable according to the effect and tenor thereof, without any deduction from either principal or interest of any tax other than income tax which the Company may or shall be required to pay or retain therefrom under any present or future law of the Dominion of Canada, or of any County, State, Province or Municipality.

Covenant for payment.

pality, and in case default shall occur in the payment of either the principal moneys or interest secured by this mortgage, when the same falls due. Whether the same occurs before or after maturity, interest at the rate of six per cent. per annum shall be payable on the amount of the principal moneys and interest from time to time remaining unpaid, and in case such default shall continue for the space of six months, then a rest shall be taken and compound interest shall be payable at the rate of six per cent. per annum on the amount so found due and remaining unpaid, and so on from time to time.

Company will
pay taxes.

Article 13. The Company for itself, its successors and assigns, promises, covenants and agrees to and with the said Trustee that it and they will pay all taxes, levies, assessments and charges that now are or that shall or may hereafter be assessed upon the said property or any part thereof, so that such property shall be free from all liens for taxes, levies, rates, charges and assessments of whatever kind whatsoever.

Covenant to
transfer
stock.

Article 14. The Company for itself, its successors and assigns, promises, covenants and agrees to and with the said Trustee that it and they will cause to be transferred into the name of the said Trustee, or in the name or names of its nominee or nominees, the shares of stock which it may acquire in any other Company and any securities which it may from time to time hold for moneys advanced to or owing by any other Company or Corporation.

Company will
insure.

Article 15. The Company for itself, its successors and assigns, promises, covenants and agrees to and with the said Trustee that it and they will forthwith insure, unless already insured, and during the continuance of this security will keep insured in some Company or Companies approved by the said Trustee against all loss or damage from any risk directed by the said Trustee, and for a reasonable amount, all the buildings, stations, rolling stock, vessels, shops, wharves, docks or other property, real or personal, belonging to or which may be acquired by the said Company (the policies to be made payable to the said Trustee) and will pay all premiums necessary therefor and the whole of the insurance moneys which may be paid prior to this security becoming enforceable in respect of any destruction or damage to the said property or any part thereof, less the costs of collecting the same, shall be held by the said Trustee upon the trusts of this mortgage, or, in the event of the said Trustee deeming it prudent and advisable, it may be applied in restoring and rebuilding such property as may have been destroyed or damaged, or in otherwise improving the property of the said Company, provided that if the said insurance moneys are insufficient, the Company shall on its part advance sufficient money to be applied in rebuilding, restoring and improving the said property so that the value of the property so rebuilt, restored and improved shall be equivalent to that of the property so destroyed or damaged.

Upon default
of insurance
trustee may
insure.

Article 16. In case the said Company fails or neglects to insure all the said buildings, stations, rolling stock, vessels, shops, wharves, docks or other property, real or personal, belonging to the said Company, to an extent deemed necessary by the said Trustee, or, having insured, shall fail or neglect to produce to the said Trustee, prior to the expiration of any subsisting contract of insurance vested in the Trustee, evidence of the said insurance as being affected or renewed, as the case may be, then the said Trustee, its successors or assigns, may in its discretion pay any premiums or sums of money for the insurance of all or any of the said buildings, stations, rolling stock, vessels, shops, wharves or other property, real or personal, belonging to the said Company, and the said sums of money so paid shall bear interest from the date of the said payment at the same rate and in the same manner as the bonds hereby secured, and shall be repayable by the Company at the time appointed for the next ensuing payment of the interest on the bonds hereby secured. No duty with respect to affecting or maintaining insurance shall rest upon the said Trustee, and it shall not be responsible for any loss or damage by reason of want of insurance.

Article 17. The Company for itself, its successors and assigns, promises, covenants and agrees to and with the said Trustee:

(a) That the Company, its successors or assigns, will not, directly or indirectly, extend or assent to the extension of the time for payment of any coupon upon bonds secured hereby, and that it will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or funding said coupons or in any other manner. In case the time for payment of any such coupons shall be so extended, whether or not such extensions be by or with the consent of the Company, such coupon shall not be entitled, in case of default hereunder, to the benefit or security of these presents, except subject to prior payment in full of the principal of all bonds issued hereunder then outstanding, and of all matured coupons on such bonds, the payment of which has not been so extended. All interest coupons shall when paid by the Company be forthwith cancelled and handed to the Trustee as evidence of such payment and cancellation.

(b) That all coupons when and as paid shall forthwith be cancelled. Time for payment of coupons not to be extended.
Coupons to be cancelled.

(c) That the Company, its successors or assigns, will pay and discharge all claims or obligations which may now be or hereafter become due to laborers or mechanics, and which may by law be given a prior right to the lien of these presents. Wages to be paid.

(d) That the Company, its successors or assigns, will preserve all its franchise rights. Franchise rights to be preserved.

(e) That the Company, its successors or assigns, will properly maintain the mortgaged railroad, and the equipment thereof, and all other property at any time covered by this indenture, repairing, renewing and replacing the same as may be necessary. Mortgaged property to be kept in repair.

(f) That the Company, its successors or assigns, will carry on and conduct the business of the Company in a proper and efficient manner, and keep all proper books of account, and will allow the same to be at all times audited and inspected by the Trustee or any person appointed by it. Business to be carried on.

(g) That the Company, its successors or assigns, will refrain from pulling down or removing any building or erection or wharf being part of the mortgaged premises, or any plant, machinery, fixtures, or fittings annexed to the same respectively, or any of them, without the previous consent in writing of the Trustee. Property not to be removed or pulled down.

(h) That the Company, its successors or assigns, will, when necessary, renew and replace all plant, machinery, tools, implements, utensils and appliances and other effects of a like nature now used or hereafter to be used for the purposes of or in connection with the business of the Company when and as the same shall be worn out or destroyed. Plant to be renewed.

(i) That the Company, its successors or assigns, will keep all buildings and erections forming part of the mortgaged premises, and all vessels, rolling stock, plant, machinery, works, fixtures, fittings, implements, utensils, and other effects used for the purpose of or in connection with the business of the Company, in a good state of repair and in perfect working order and condition, and will allow the same at all times to be inspected by the Trustee or any person appointed by it for that purpose. Building and plant to be kept in repair.
Trustee may view state of repair.

(j) That the Company, its successors or assigns, will give all notices, orders and directions, which the Trustee may think expedient for the purposes of the trusts hereof. Notice to be given.

(k) That the Company, its successors or assigns, will execute and do all such assurances, acts and things as may be required by the Trustee in relation to all or any of the present or future property hereby conveyed or charged, or agreed so to be, for the better and more fully vesting the same in the Trustee or more fully assuring and securing the same to it, or for the purposes of registration, or for any other purpose, and the Company irrevocably appoints the Trustee to be the Attorney of the Company, in the name and on behalf of the Company or otherwise, to execute and do all assurances, acts and things which the Company ought to execute and do under all or any of the covenants or provisions herein contained and generally to use the name of the Company in the exercise of all or any

	of the powers herein conferred upon the Trustee or any receivers or receiver appointed by it.
Security to become enforceable on default of payment of principal or interest.	Article 18. The security hereby constituted shall become enforceable in each and every of the events following, that is to say: (a) If the Company shall make default in the payment of any principal moneys or interest which ought to be paid in accordance with these presents and such default shall continue for the space of one calendar month.
Order for winding up.	(b) If an order shall be made or an effective resolution passed for winding up of the Company.
Receiver appointed.	(c) If a Receiver of the Company's undertaking or any part thereof, shall be appointed, and such appointment shall in the opinion of the Trustee be prejudicial to the security hereby constituted.
Execution issued.	(d) If a distress or execution be levied or enforced upon or against any of the chattels or property of the Company, or if any execution or other process be issued out against the mortgaged premises or any part thereof.
Company cease to carry on business.	(e) If the Company shall stop payment or shall, without the consent in writing of the Trustee, cease to carry on its business or threaten to cease to carry on the same.
Bonds liable to be sold.	(f) If any of the bonds under or by virtue of any pledge thereof granted by the Company shall become liable to sale by the pledgee or pledgees thereof.
Trustee shall certify in writing.	(g) If the Trustee shall certify in writing that in its opinion it is in the interests of the bondholders that the bonds should immediately become due and payable or that this security should be enforced.
Default in performance of covenants.	(h) If default shall be made by the Company in the observance or performance of any of the covenants, conditions and agreements in the said bonds or in this mortgage contained, and the Company shall not within three months after written notice specifying any such default, and requiring the Company to remedy the same, shall have been served upon the Company by the Trustee, comply with the covenant, condition or agreement not observed or performed, if then capable of being complied with, or otherwise make good the breach to the satisfaction of the Trustee. Such notice shall be sufficient if it shall state in ordinary language the default or breach complained of, and the Company shall not in any proceeding set up any defence as to the irregularity or insufficiency of such notice, unless it shall inform the Trustee of the irregularity and insufficiency complained of.
On default trustee may enter.	Article 19. Upon this security becoming enforceable it shall be lawful but not obligatory upon the Trustee itself, or by its Attorneys or Agents, to enter into and upon the mortgaged premises or any part thereof, and from thenceforth to have, hold, possess and use the mortgaged premises and all or any part thereof, and until the sale and delivery of the same as hereinafter provided for, to operate and conduct the business of the Company by such receivers, superintendents, managers and servants, attorneys or agents, as the Trustee may think fit; and to make from time to time such repairs, replacements, alterations, additions and improvements to the mortgaged premises, or any part thereof, as the Trustee may think advisable, and to collect and receive all tolls, incomes, rents, issues and profits of the mortgaged premises and every part thereof, and, after deducting all expenses and outgoings of operating and conducting the said business, and of repairs, replacements, alterations, additions and improvements, and all payments which may be made or may be due for insurance, taxes, assessments, charges or liens, prior to the lien of this mortgage, upon the mortgaged premises, or any part thereof, and just compensation of the Trustee for its own services and for the service of such Counsel, Attorneys, Agents and other persons as shall have been by it employed, and all other costs, charges, outlay or expenses reasonably incurred in and about the execution of the trusts or powers in this mortgage contained or for the protection of the mortgaged premises, the Trustee shall apply the balance of the moneys received by it in connection with the operation and conduct

of the said business and the mortgaged premises to the payment of interest on the said bonds then outstanding in the order in which the said interest shall have become or shall become due, rateably and proportionately and without preference or priority, to the persons entitled to such interest. Any surplus moneys remaining not required for the payment of matured interest or for the other purposes above mentioned, shall be reserved to be applied to the payment on account of unpaid interest on bonds not then matured.

No entry into possession of the mortgaged premises, or any part thereof, by the Trustee or any receiver or other person shall render the Trustee liable as Mortgagee in possession or accountable for any moneys except those actually remitted to and received by it at its Head Office in Buffalo.

Trustee not to be liable as Mortgagee in possession.

Article 20. The Trustee may by writing appoint a Receiver or Receivers of the mortgaged premises or any part or parts thereof, and may remove any Receiver so appointed and may appoint another in his stead, and the following provisions shall take effect:

Trustee may appoint Receiver.

(a) Any such appointment or appointments may be made immediately upon this security becoming enforceable, and either before or after the Trustee shall have entered into or taken possession of the mortgaged premises or any part thereof.

Receiver may be appointed immediately security becomes enforceable.

(b) Any such appointment may extend to the whole or be limited to any specified part of the mortgaged premises, or to any specified portion thereof, or to any specified part of the business of the Mortgageors, and there may be several of such concurrent appointments.

As to part or whole.

(c) Every such Receiver may be invested by the Trustee with all or any of the powers and discretions of the Trustee in respect of the property of which he is appointed Receiver.

Receiver may have full power.

(d) The Trustee may from time to time fix the remuneration of such Receiver or Receivers, and direct payment thereof out of the mortgaged premises.

Trustee may fix remuneration.

(e) Every such Receiver may exercise all or any of the powers conferred upon the Trustee by this mortgage, in respect of the property of which he is appointed Receiver.

Receiver may exercise powers of Trustee.

(f) The Trustee may from time to time require any such Receiver to give security for the performance of his duties and may fix the nature and amount thereof, but it shall not be bound to require such security.

Trustee may require security.

(g) Every such Receiver shall, so far as regards responsibility for his acts or for loss or misconduct, be deemed to be the agent of the Company or its assigns.

Receiver in certain cases to be agent of Company.

(h) Save so far as otherwise directed in writing by the Trustee, all moneys from time to time received by every such Receiver shall be paid over to the Trustee to be held by it on the trusts hereof.

Moneys to be paid Trustee.

Article 21. It is further provided by and on behalf of the Company, and it is hereby agreed that, in addition to all other powers herein conferred upon the Trustee and the bondholders to enable them to enforce payment of the said bonds and interest and as a cumulative remedy, they shall have the following rights and powers upon this security becoming enforceable, that is to say:

Additional powers of Trustee.

(a) It shall be lawful for the Trustee after such entry as aforesaid, or after other entry, or without entry, personally or by its attorneys or agents, to sell and dispose of all and singular the mortgaged premises *en bloc* or in parcels as the Trustee may deem expedient, either by public auction or private sale, and at such time and place and in such manner as the Trustee may think best, or to from time to time grant any lease or leases of the same or any part or parts thereof.

Power of sale.

(b) Upon being requested by a majority of the bondholders in the manner hereinafter provided for declare the principal sum of each of the said bonds to be due and payable, and the same shall upon such declaration become due and payable accordingly, but such declaration shall not be made by the Trustee unless holders of said bonds then outstanding and representing more than one-half of the amount of bonds upon which default in the payment of interest shall have been made and shall be continuing, shall have requested the Trustee so to do by an instrument in writing at any time before the

May declare principal money due.

actual

actual payment of the interest in arrears; and holders of said bonds representing more than one-half as aforesaid shall by an instrument in writing have the power to cancel any declaration already made to that effect or to waive the right so to declare on such terms and conditions as they may prescribe; provided always that no act or omission either of the Trustee or of the bondholders in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default or the rights resulting therefrom.

May rescind or
vary any sale.

Article 22. It shall be lawful for the Trustee to make any such lease or sale in pursuance of the aforesaid power or trust in that behalf with or without any special condition as to upset price, reserved bid or otherwise, and also with full power to rescind or vary any contract of lease or sale that may have been entered into, and to re-sell or lease with or under any of the powers herein without being responsible for any loss on any such resale or lease with full power to the Trustee to stop, suspend or adjourn any such sale from time to time in its discretion, and upon any such lease or leases, sale or sales as aforesaid to make and deliver to the lessee or lessees, purchaser or purchasers of the mortgaged premises or any part or parts thereof, such good and sufficient lease or leases, deed or deeds in the law for the same as may be required.

Article 23. After deducting from the proceeds of any sale just allowance for all expenses thereof, including Attorney's and Counsel's fees and all other expenses, advances or liabilities, including premiums on insurance, if any, which have been made or incurred by the Trustee in operating or maintaining the said Company or in managing the business thereof, and all payments made by it for taxes or assessments or for charges or liens, if any, prior to the lien of these presents, upon the said premises or any part thereof, as well as reasonable compensation for its own services and any other expenses properly incurred, it shall and may be lawful for the Trustee, and it shall be its duty to apply the residue of the moneys arising from such sale to the payment of the principal and accrued and unpaid interest on all such bonds that shall then be outstanding without discrimination or preference as between principal and accrued and unpaid interest, or as between the holders of the said bonds or any coupons thereof but equally and rateably, and to all such bond and coupon holders who shall be bound to accept payment thereof notwithstanding that any bond or bonds shall not then be due or payable according to the tenor thereof, and if after payment and satisfaction in full of such bonds, principal and interest, a surplus of the said proceeds shall remain, the surplus shall be paid to the Company or its assigns.

Purchaser not
bound to
enquire.

And it is hereby declared and agreed that the receipt by the Trustee for the said purchase money shall be a sufficient discharge to the purchaser or purchasers at such sale for his or their purchase money and that after payment of such purchase money and having such receipt, the purchaser or purchasers shall not be obliged to enquire into or see to the application of such purchase money upon or for the trusts and purposes of these presents or be in any manner whatsoever answerable for any loss, misapplication or non-application of such purchase money or any part thereof, nor shall they be at any time obliged to enquire whether default has occurred under which the Trustee purports to sell or whether notice, if required, has been given, and notwithstanding that default has not occurred, or that notice, if required, has not been given, the purchaser or lessee shall obtain a good title to the said property, and the sale under the said power of sale shall not be affected.

Bondholders
may purchase.

Article 24. It is hereby declared that upon any sale being made in pursuance of the aforesaid power or trust in that behalf, it shall be lawful for any one or more of the said bondholders or for any person representing all or any of the said bondholders, to become the purchaser or purchasers at such sale, and then in every case the Trustee, if requested so to do by such purchaser or purchasers, shall accept from such purchaser or purchasers, in payment or part payment of the money, so many of the said bonds as shall be in the possession of such purchaser or purchasers, if the price be sufficient to pay all such bonds in full, and, if not, shall

give such purchaser or purchasers credit on the bonds held by him or them for such sum as he or they would be entitled to receive if the whole of the said purchase money had been paid in cash on a distribution of the same among all the holders of the said bonds then outstanding *pari passu* and *pro rata* according to the provisions hereinbefore contained.

Article 25. It is hereby further provided and agreed by the Com- Foreclosure.
pany that in case the Trustee shall deem it advisable for the interest of the bondholders to resort to judicial proceedings to foreclose this mortgage or to sell the mortgaged premises, then in that case the Trustee on any default may proceed in any court having jurisdiction in the Province of Ontario, or elsewhere, to foreclose the same or enforce the sale thereof by judicial process, to pay the whole of the amount of the said bonds not previously redeemed, together with the accrued interest thereon, in the same manner as if said bonds were all due and payable by the terms thereof.

Article 26. Every sale made hereunder, whether pursuant to the powers herein contained or by judicial process shall be absolute and without redemption and shall be a perpetual bar of all right or claim whatever of the Company to the mortgaged premises or any part or parts thereof so sold.

Article 27. (a) The Trustee may employ solicitors, agents or at- Legal advice.
torneys in fact, and shall not be responsible for the default or misconduct of any solicitor, agent or attorney appointed by it in pursuance hereof if such solicitor, agent or attorney shall have been selected with reasonable care, nor for anything whatever in connection with the trusts hereof, except wilful misconduct or gross negligence.

(b) The Trustee may advise with legal counsel, and any action under this Indenture taken or suffered in good faith by the Trustee in accordance with the opinion of counsel shall be conclusive on the Company, and on all holders of the said bonds.

Article 28. In any case or upon any occasion arising when the Trustee shall desire to consult with the bondholders a meeting of the Trustee may
bondholders.
the bondholders may be called by the said Trustee by notice to be published once a week for three consecutive weeks in some newspaper published in the City of Buffalo, and by notice mailed at least ten days before the date fixed for such meeting to the addresses of such of the bondholders whose bonds are registered, and such meeting shall be held in the City of Buffalo at such time and place as shall be fixed by the notice so published and may without publication be adjourned from time to time and to such place as the meeting shall determine, and such meeting shall be held in the manner usual with deliberate bodies, a chairman to be elected by the bondholders present or represented by proxy, and each bondholder shall have one vote for each and every Five Hundred Dollars of principal represented by any bond held by him. At such meetings and in all other acts, deeds, matters or things requiring to be done in respect of the premises under any provision contained herein or in the said bonds or otherwise in relation thereto, a bondholder may act either in person or by proxy or attorney duly constituted.

Article 29. Any request or other instrument required by this Inden- Requests by
ture to be signed and executed by bondholders may be in any number bondholders.
of concurrent instruments of a similar tenor or effect, and may be executed by such bondholders in person or by an agent or attorney. Proof of the execution of any request or other instrument, or of the due appointment of any such agent or attorney, or of the holding by any person of bonds transferable by delivery shall be sufficient for any purpose of this Indenture, and shall be conclusive in favour of the Trustee with regard to any action taken or suffered by the Trustee under such request or other instrument if made in the following manner, namely:—

- (a) The fact and date of the execution by any person of any Proof of
such request or of any other instrument in writing may be execution.
proved by the certificate of any Notary Public or the Mayor of any Town or City under official seal certifying that the persons signing such request or other instru-

ment acknowledged to him the execution thereof, or by the affidavit or statutory declaration of a witness to such execution.

Number of
bonds.

- (b) The amount of bonds transferable by delivery held by any person executing such request or other instrument as bondholder, and the issue and number of bonds held by such person and the date of his holding the same may be proved by a certificate issued by any trust company, bank or other depository, whose certificate the Trustee may think to be satisfactory showing that at the date therein mentioned, such person had on deposit with or exhibited to such depository, the bonds numbered and described in such certificate, and such bonds, for the purpose of action by the Trustee on the faith of such certificate shall be conclusively deemed to be held as certified during two calendar months ensuing the date of such certificate, and the Trustee shall not be required to take cognizance of any notice to the contrary.

Ownership of
registered
bonds.

- (c) The ownership of registered bonds shall be proven by the book for the registry of such bonds as provided in this Indenture.

Requests by
Company.

- (d) Any written demand, request, notice, designation, direction or nomination to be made by the Company under any of the provisions hereof shall, unless otherwise provided, be deemed sufficiently made and executed if executed under the corporate seal of the Company, by the President or by a Vice-President of the Company. The Trustee may receive a certificate signed by the Secretary of the Company as sufficient evidence of the passage of any resolution of the Board of Directors of the Company or of the shareholders thereof.

- (e) Notwithstanding anything herein contained the Trustee shall not be bound to recognize any person as a bondholder unless and until his bonds are submitted to the Trustee for inspection and deposited with the Trustee if required, and his title satisfactorily established, if disputed. The Trustee shall be under no obligation or duty to perform any act hereunder or to defend any suit in respect hereof, unless reasonably indemnified.

Bondholders
to act by
resolution.

Article 30. Bondholders may act for all purposes hereunder by resolution at a meeting duly called passed by a vote of a majority or by one or more of those then present by instruments signed by or on behalf of the required majority, and such resolution or instrument or instruments so passed or signed shall bind the minority to the same extent as if such minority had concurred therein or signed the same, and bondholders shall, in addition to all other powers, have the following powers exercisable only by resolution passed by a vote representing not less than two-thirds in amount of the outstanding bonds or by instrument signed by or on behalf of the holders of not less than two-thirds of the outstanding bonds, viz.:

Bondholders
may sanction
reconstruction.

- (a) Power to sanction any scheme for the reconstruction of the Company or for the amalgamation of the Company with any other Company, or for the selling or leasing of the undertakings or part thereof of the Company to any other Company where the consent of the bondholders to such reconstruction or amalgamation or leasing may be required.

Authorize
Trustee to
accept shares,
etc.

- (b) Power to authorize the Trustee to sell or transfer and to accept in satisfaction or part satisfaction for the sale or transfer of or in lieu of all or any part of the mortgaged premises, any shares, whether preference, ordinary or otherwise, debentures, bonds, debenture stock, or any other securities of any Company formed or to be formed.

(c)

- (c) Power to sanction any modification or compromise of the Modification rights of the bondholders against the Company or against its property, whether such rights shall arise under this Indenture or otherwise. rights of bondholders.
- (d) Power to assent to any change in addition to or omission from the provisions contained in this Indenture which shall be proposed by the Company, and to authorize the Trustee to concur in and execute any deed supplemental to this Indenture embodying the same. Change provisions of mortgage.

Article 31. It is hereby further agreed and declared that the Trustee may resign the trusts hereby created and be discharged from any further duty thereunder by giving one month's notice in writing to the Company, and in the event of the resignation of the Trustee it shall be lawful for the holders for the time being of a majority in interest of the bonds then outstanding to appoint a Trustee or Trustees under these presents either by resolution passed at a meeting of the said bondholders to be duly convened and at which a majority in interest of the said bondholders shall be present or represented, or by an instrument in writing duly executed by a majority in interest of such bondholders. Trustee may resign.

Provided, nevertheless, that if after reasonable exertions it shall prove impracticable to appoint a Trustee or Trustees in the manner aforesaid, or if the appointment of such new Trustee or Trustees in the manner aforesaid shall be delayed for the period of one month after such resignation shall have been made known to the Company, without the calling of any meeting of bondholders for the purpose of filling such vacancy, it shall be lawful for the Company or any holder or holders of the bonds then outstanding to apply to the High Court of Justice for Ontario or any Judge thereof for the appointment of a new Trustee or Trustees to fill such vacancy upon reasonable notice to the Company and to such other persons as the Court or Judge shall prescribe, and upon every such appointment as aforesaid the trust property shall vest in the person or persons or corporation who thereupon become and are Trustees for performing the trust without any conveyance or assignment, but, if desired by the new Trustee, the trust property shall, if and so far as the nature of the property and other circumstances shall require or admit of, be transferred so that the same may be vested in the Trustee or Trustees for the time being, and every Trustee so appointed as aforesaid, may as well before as after such transfer to said Trustee act or assist in the execution and exercise of the powers and trusts of these presents as fully and effectually as if he had been constituted an original Trustee under these presents.

Article 32. The Trustee shall not be liable for or by reason of any failure or defect of title to, or any encumbrance upon, the mortgaged premises, or for or by reason of the statements of facts or recitals in this mortgage or in the bonds contained, or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only; and it shall not be the duty of the Trustee and nothing herein contained shall in any wise cast any obligation upon the Trustee to see to the registration or filing or renewal of this or any other deed or writing by way of Mortgage or Bill of Sale upon the mortgaged premises or any part thereof, or upon any other property of the Company, or to procure any further, other or additional instrument of further assurance, or to do any other act for the continuance of the lien hereof, or for extending or supplementing the same, or to insure against loss or damage by fire or other risk any of the mortgaged property; or to keep itself informed or advised as to the payment by the Company of any taxes or assessments or premiums of insurance or other payments which the Company should make, or to require such payments to be made, it being hereby agreed and declared that, as to all the matters and things in the clause referred to, the duty and responsibility shall rest upon the Company and not upon the Trustee, and the failure of the Company to discharge such duty and responsibility

shall

shall not in any way render the Trustee liable, or cast upon it any duty or responsibility for breach of which it would be liable; and the Trustee shall not be required to take any action in virtue of any of the powers conferred upon it hereunder until required so to do by writing signed by holders of bonds as herein provided, and until indemnified as herein provided, and prior to such requisition and indemnification the duty and responsibility of the Trustee is confined to certifying the said bonds.

Exoneraton
of Trustee.

Article 33. The Trustee shall not be responsible for any neglect or default on the part of any servant or agent appointed by it, if selected with reasonable care, nor for any error or mistake made in good faith.

Article 34. The Trustee shall have a first lien upon the mortgaged premises, a fund for its reasonable expenses, counsel fees and compensation incurred in and about the execution of the Trust hereby created and the exercise and performance of its powers and duties hereunder.

Last day of
any term of
years.

Article 35. It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any Agreement therefor now held or hereafter acquired by the Company, and whether falling within a general or specific description of property hereunder, is hereby excepted out of the assignment or transfer of such Lease or Agreement hereby made, and does not and shall not form any portion of the mortgaged premises.

Last day of
any term of
years.

Article 36. And it is further hereby declared and agreed that, after any Lease or sale made under the powers herein contained of any leasehold interest forming part of the mortgaged premises, the Company shall stand possessed of the premises sold for the last day of the term granted by the lease thereof or agreement therefor in trust for the purchaser or purchasers, their executors, administrators and assigns, to be assigned and disposed of as he or they may direct.

Interim bonds.

Article 37. Pending the delivery of lithographed or engraved bonds, the Company may issue and the Trustee may certify interim bonds of such denominations as may be expedient, and with or without coupons, not exceeding in the aggregate the amount of Three Hundred Thousand Dollars (\$300,000.00), and when so issued and certified by the Trustee, such bonds shall be secured hereby in all respects as the bonds hereinbefore provided for. Such bonds shall be exchangeable for lithographed or engraved bonds of equal amount in the aggregate, and when so exchanged shall then be cancelled, and the holders of such interim bonds shall, until the same are exchanged for engraved or lithographed bonds, be bondholders within the meaning of this mortgage. The Trustee shall certify and deliver such interim bonds and lithographed or engraved bonds in such amount, not exceeding in the aggregate the amount of \$300,000 and at such time or times as it shall be directed in and by a resolution of the Directors of the Company; and after certification the Trustee shall deliver the bonds so certified to the persons, firms or corporations named in such resolution and a copy of such resolution, certified by the President or Secretary of the Company and delivered to the Trustee shall be conclusive authority to the Trustee for such certification and delivery.

Acceptance of
Trustee.

Article 38. The Trustee hereby accepts the trusts of this Indenture, and agrees to carry out and discharge the same unless and until discharged therefrom by resignation or in some other lawful way.

Meaning
of words
"Company",
"Trustee."

Article 39. Wherever throughout this Mortgage the Company or the Trustee are mentioned or referred to, such mention or reference shall extend to and include their successors and assigns, and for all purposes under this Mortgage the Company may act through its Board of Directors or Officers or persons authorized by the Board.

In witness whereof the Parties hereto have executed these presents, this day of 1910.

Signed, Sealed and Delivered
In the Presence of:

SCHEDULE "A" TO MORTGAGE DEED.

1. Charter and right of way.
2. Ferry franchises from Fort Erie to Buffalo.
3. Niagara Landing.

At Fort Erie Grove.

4. Erie Beach Hotel and Equipment.
 5. Dock.
 6. Restaurant Building.
 5. Waiting Room.
 6. Band-stand.
 7. Two Bathrooms.
 8. Pump House.
 9. Boiler, Pump and Water Tank.
 10. Car Sheds.
 11. Ticket Office and Waiting Room.
-
12. International Hotel and Equipment.
 13. Ferry Boats "Niagara" and "Hope."
 14. Three Engines.
 15. Twelve Passenger Coaches.
 16. One Flat Car, Hand Car and Equipment.
 17. Natural Gas Lights with \$500 worth of stock.
 18. Gas Cooking House.
 19. Dancing Pavilion.
 20. Electric Fountain.
 21. Concrete Pier.
 22. New Customs Building, Drug Office and Law Office

SCHEDULE "B" TO MORTGAGE DEED.

All and singular, those certain parcels or tracts of land and premises situate, lying and being partly in the Township of Bertie and partly in the Village of Fort Erie, in the County of Welland and Province of Ontario.

Firstly. Being composed of that block of 11 acres lying along the northerly shore of Lake Erie, on the south side of the Lake Shore Road in front of the Garrison Reserve, being partly in the township of Bertie and partly in the village of Fort Erie.

Commencing at the point where the east limit of Helena Street at the west limit of the Garrison Reserve intersects the north shore of Lake Erie; thence north five chains and thirty links, more or less, to the southerly limit of the Lake Shore Road in front of said Reserve; thence south eighty-eight degrees and thirty minutes east along the southerly limit of said road, thirteen chains and eighty links; thence north sixty-four degrees east, still along the southerly limit of said road, twenty-two chains and sixty-five links; thence north fifty-five degrees east, still along said limit of said road, twenty-three chains and forty links; thence north sixty-one degrees east still along said limit of said road, eight chains; thence north seventeen degrees east, still along said limit of said road, one chain and thirty links; thence north fifty-five degrees east, still along said limit of said road, two chains and fifty links; thence south sixty-eight degrees east, seventy links, to the high water mark of Lake Erie; thence westerly along the said high water mark to the place of beginning, as shown on plan attached to the patent from the Crown.

Secondly. Being composed of lot number 7 on the northerly side of the Lake Shore Road, in the village of Fort Erie, according to P. L. S. Passmore's plan registered in the Registry Office for the said County as number 328, for the village of Fort Erie, and being shown as the Joyce lot or parcel G, on Wadsworth and Unwin's plan of part of the Military Reserve, registered in the said Registry Office as number 213 for the Village of Fort Erie, said lot being also known as lot number 5 on the north side of the Lake Shore Road, and containing an area of one acre, be the same more or less.

Thirdly

Thirdly. Being composed of parcel A, containing an area of 35,000 square feet, and lots lettered B, C, D, E, F, G, H, I and J, also lots numbered 1, 2, 3, 13, 14, 15, 16, 17 and 18, and street 40 feet in width lying to the north of said lot 14, as laid down on the plan of part of the Ordnance Reserve one chain in width, fronting on the Niagara River, in the Village of Fort Erie, registered in the said Registry Office of the said County of Welland as plan number 453 for the said village, excepting thereout those parts of said lots 17 and 18 conveyed to The Canadian Niagara Power Company, by deed dated the 7th of September, 1906, and registered the 20th of September, 1906, said parcel being particularly described as follows:

Beginning at a point distant 155.79 feet from the north-west corner of Queen Street and Niagara Street measured north eighty-eight degrees and four minutes east therefrom; thence north ten degrees and twelve minutes east, 107.4 feet to a point; thence north eighty-eight degrees and four minutes east to the westerly shore line of the Niagara River; thence southerly along said westerly shore line to a point distant 105 feet from the second above described course of this parcel; thence south eighty-eight degrees and four minutes west to the point of beginning.

Fourthly. The water lot, in the Village of Fort Erie, containing $1\frac{1}{2}$ acres, more or less, lying in front of the north part of township lot number 2, in the first concession of the Niagara River, in the Township of Bertie, described as follows:

Commencing in the southern limit of the allowance for road between lots 3 and 2, in the said first concession and in the eastern limit of the Ordnance Chain Reserve along the bank of the River Niagara; thence south eighty-nine degrees and thirty minutes east, five chains, more or less, to the channel bank of the said River or Deep Water; thence southerly following said channel bank or deep water up stream to the point where this course would be intersected by the easterly production of the northerly limit of said Parcel A; thence south eighty-eight degrees and thirty-six minutes west, to the northwest angle of said Parcel A; thence north two degrees and fifteen minutes west, three chains and sixty-two links, more or less, following the said eastern limit of the said Ordnance Reserve to the place of beginning.

Fifthly. That parcel or tract of land and land covered with water in the Village of Fort Erie, described as follows:

Commencing at a point where the southern boundary of the side road between township lots 2 and 3, produced easterly, intersects the easterly limit of the Ordnance Chain Reserve on the Niagara River, in the said Village of Fort Erie; thence easterly along the same line produced 120 feet more or less, to the channel bank of the said river; thence northerly following the said channel bank to a point 99 feet distant from and measured at right angles to the said produced southerly limit of the aforesaid road between lots 2 and 3; thence westerly parallel to the said produced southerly limit of the aforesaid road between lots 2 and 3; to the easterly limit of said Ordnance Reserve; thence southerly following the said easterly limit of said Ordnance Reserve, ninety-nine feet to the place of beginning.

CHAPTER 139

An Act to amend the Act respecting The Bruce
Mines and Algoma Railway Company.*Assented to 7th March, 1910.*

WHEREAS The Bruce Mines and Algoma Railway Company, hereinafter called "The Company" by its Act of incorporation, passed in the sixty-second year of the reign of Her late Majesty Queen Victoria, chaptered 93, as amended by Acts passed in the third year of His Majesty's reign, chaptered 91, and in the fifth year of His Majesty's reign, chaptered 89, was authorized to construct a railway and branches as set forth in the said Acts, and was permitted to have and to use and enjoy certain powers and privileges; and whereas the Company has by its petition prayed that the time for the completion of the said railway and branches may be extended; and whereas it is expedient to grant the prayer of the said petition;

Preamble.

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of the Act passed in the fifth year of His Majesty's reign, chaptered 89, is repealed.

5 Edw. VII.
c. 89, s. 3,
repealed.

2. The railway authorized by the said Acts and by this Act shall be completed within three years after the passing of this Act; and if the railway is not completed and put in operation within three years from the passing of this Act, then the powers granted to the Company by the said Acts and by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

Time for
completion
extended.

3. The Act passed in the 62nd year of the reign of Her late Majesty, Queen Victoria, chaptered 93, as amended by the said Acts passed in the third and fifth years of His Majesty's reign chaptered 91 and 89 respectively is declared to be in force notwithstanding any neglect or default on the part of the Company in complying with the provisions of the said Acts passed in the third and fifth years of His Majesty's

Provisions of
62 V. c. 93,
3 Edw. VII.
c. 91, and
5 Edw. VII.
c. 89, de-
clared to be
in force.

reign, chaptered 91 and 89 respectively and, except as provided by section 2 of this Act, anything by the said amending Acts required to be done may be done after the passing of this Act.

Application
of 3 Edw.
VII. c. 39.

4. The provisions of *The Ontario Railway Act, 1906*, except where inconsistent with the provisions of this Act, shall apply to the said Company, and to the railway constructed or to be constructed by it.

CHAPTER 140.

An Act respecting The Dunnville, Wellandport and
Beamsville Electric Railway Company.*Assented to 7th March, 1910.*

WHEREAS The Dunnville, Wellandport and Beams-^{Preamble.}
ville Electric Railway Company has by petition re-
presented that the said Company was incorporated under the
name of "The Dunnville, Wellandport and Beamsville Elec-
tric Railway Company," by an Act passed in the sixth year of
His Majesty's reign, Chaptered 107, as amended by an
Act passed in the eighth year of His Majesty's reign, Chap-
tered 123, and as further amended by an Act passed in the
ninth year of His Majesty's reign, Chaptered 133, for
the purpose of constructing and operating an electric
railway as set forth in the said Acts, and whereas the
said Company has by its petition prayed that the
proposed line of its railway be extended from, at or near
Jordan Harbour, in the County of Lincoln, to the City of
St. Catharines, in the said County of Lincoln, and for other
purposes; and whereas it is expedient to grant the prayer
of the said petition;

Therefore, His Majesty, by and with the advice and con-
sent of the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. The Dunnville, Wellandport and Beamsville Electric ^{Extension}
Railway Company is authorized and empowered to lay out, ^{of line}
construct, equip, maintain and operate by electricity an ex- ^{authorized.}
tension of the Company's railway from, at or near Jordan
Harbour, in the County of Lincoln to, at or near the City
of St. Catharines, in the said County of Lincoln.

2. The Company may issue bonds, debentures, or other ^{Bond}
securities to the extent of \$30,000 per mile of railway ^{issue.}
constructed or under contract to be constructed for that
portion of the line of railway of the said Company lying
between the west limit of the Township of Louth, in the
County of Lincoln to its terminus in or near the City of St.
Catharines, in the said County of Lincoln.

CHAPTER

CHAPTER 141.

An Act to incorporate The Hurontario Railway Company.

Assented to 19th March, 1910.

Preamble.

WHEREAS Frank Foster Telfer, Wholesale Merchant; Sanford H. Lindsay, Manufacturer; and William T. Allan, Barrister, all of the Town of Collingwood, in the County of Simcoe, have petitioned for an Act to incorporate a company to construct a railway to be operated by steam or electricity from a point at or near the Town of Collingwood in the County of Simcoe, thence in a south-easterly direction through the Townships of Nottawasaga, Sunnidale, Flos, and Vespra to the Town of Barrie, in the said County of Simcoe, thence to a point on the Canadian Northern Railway at or near the Town of Orillia, in the said County of Simcoe; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation.

1. The said Frank Foster Telfer, Sanford H. Lindsay and William T. Allan, together with such other persons, firms and corporations as shall hereafter become shareholders of the said company, are constituted a body corporate and politic by the name of "The Hurontario Railway Company," hereinafter called "the Company."

Location of line.

2. The company is authorized and empowered to survey, lay out, construct, complete, equip and maintain a railway to be operated by steam or electricity, or partly by one and partly by the other, from a point in, at or near the Town of Collingwood, in the County of Simcoe, thence in a south-easterly direction through the Townships of Nottawasaga, Sunnidale, Flos, and Vespra to the Town of Barrie, in the said County of Simcoe, thence to a point on the Canadian Northern Railway at or near Orillia, in the said County of Simcoe.

3. The head office of the company shall be in the Town Head office.
of Collingwood, in the said County of Simcoe.

4. The said Frank Foster Telfer, Sanford H. Lindsay ^{Provisional}
and William T. Allan shall be the provisional directors of
the company.

5. The number of directors shall not be less than three ^{Number of}
and not more than five. ^{directors.}

6. The capital stock of the company shall be \$500,000. ^{Capital stock.}

7. The company may issue bonds, debentures or other ^{Bonds.}
securities to the extent of \$30,000 per mile of railway con-
structed or under contract to be constructed.

8. The provisions of *The Ontario Railway Act, 1906*, ^{Application of}
shall apply to the company and to the railway constructed ^{6 Edw. VII.}
or to be constructed by it. ^{c. 30.}

CHAPTER 142.

An Act respecting The Iron Range Railway Company.

Assented to 19th March, 1910.

Preamble.

WHEREAS The Iron Range Railway Company was incorporated by an Act passed in the eighth year of His Majesty's reign, chaptered 127, and was by said Act authorized to construct a railway as therein described; and whereas the said company has by its petition prayed for an extension of time for the commencement and completion of the said undertaking; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

8 Edw. VII.
c. 127, s. 8
repealed.

1. Section 8 of the Act passed in the eighth year of His Majesty's reign, Chaptered 127, is repealed.

Time for com-
mencement
and comple-
tion extended

2. The railway authorized by the said Act and by this Act shall be commenced within two years and completed within three years after the passing of this Act; and if the construction of the railway is not commenced and fifteen per cent. of the amount of the capital stock is not expended thereon within two years after the passing of this Act, or if the railway is not completed and put in operation within three years from the passing of this Act, then the powers granted to the company by the said Act and by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

CHAPTER 143.

An Act respecting The Lac Seul, Rat Portage and
Keewatin Railway Company.*Assented to 19th March, 1910.*

WHEREAS The Lac Seul, Rat Portage and Keewatin Railway Company was incorporated by an Act passed in the third year of His Majesty's reign, Chaptered 102, as amended by an Act passed in the fourth year of His Majesty's reign, Chaptered 80, and as further amended by an Act passed in the eighth year of His Majesty's reign, Chaptered 128, for the purpose of constructing and operating a railway, as therein described; and whereas the said company has by its petition prayed for an extension of time for the commencement and completion of its undertaking; and whereas it is expedient to grant the prayer of the said petition;

Preamble.

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 3 of the Act passed in the eighth year of His Majesty's reign, Chaptered 128, is repealed.

8 Edw. VII.,
c. 128, s. 3
repealed.

2. The railway authorized by the said Acts and by this Act shall be commenced within two years and completed within three years after the passing of this Act; and if the construction of the railway is not commenced and fifteen per cent. of the amount of the capital stock is not expended thereon within two years after the passing of this Act, or if the railway is not completed and put in operation within three years from the passing of this Act, then the powers granted to the company by the said Acts and by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

Time for
commence-
ment and
completion
extended.

CHAPTER 144.

An Act to incorporate The Monarch Railway Company.

Assented to 19th March, 1910.

Preamble.

Whereas Charles Michael Garvey, solicitor; William Herbert Price, Solicitor; James Francis Coughlin, accountant; Ninian R. Lindsay, capitalist; and Stephen Ferdinand Adalia, capitalist, all of the City of Toronto, in the County of York, have by their petition prayed for an Act of Incorporation under the name of "The Monarch Railway Company," for the purpose of constructing and maintaining a railway to be operated by steam, electricity or other motive power from some point in the Township of York at, or near the northerly limit of the City of Toronto, in the County of York; thence northerly through the Townships of York, Vaughan and King, in the said County of York, the Townships of West Gwillimbury, Innisfil and Vespra, in the County of Simcoe, to a point at, in or near the Town of Barrie, in the said County of Simcoe; thence in a north-easterly direction through the Townships of Vespra, Oro and Orillia, to a point at, near or in the Town of Orillia, all in the said County of Simcoe; thence northerly through the Townships of Orillia, Medonte, Tay and Tiny to a point at or near the Town of Penetanguishene, all in the said County of Simcoe, and in its course through all the above-named townships passing through or touching all or any of the various towns or villages lying in its route; with a branch from a point at, in or near the said Town of Barrie, thence in a north-westerly direction through the Townships of Vespra, Sunnidale and Nottawasaga, in the said County of Simcoe, the Townships of Collingwood, St. Vincent and Sydenham, in the County of Grey, to a point at, in or near the Town of Owen Sound, in the said County of Grey; thence northerly through the Townships of Sarawak and Keppel, in the said County of Grey, and Amabel, in the County of Bruce, to a point at, in or near the Town of Wiarton, in the said County of Bruce, and in its course through all the said above-named townships, passing through or touch-

ing

ing any or all of the various towns and villages lying in its route; with a branch from a point at, in or near the Village of Bradford in the County of Simcoe, thence through the Townships of West Gwillimbury and Innisfil, in the said County of Simcoe, to a point near the shore of Lake Simcoe at or near the 11th or 12th Concession of the said Township of Innisfil and with a branch from a point at, in or near the said Town of Barrie, thence in a northeasterly direction through the said Township of Innisfil to a point near the shore of Lake Simcoe at or near the said 11th or 12th Concession of the said Township of Innisfil and in its course through the above-named Townships passing through or touching any or all of the various towns and villages lying in its route; and with power to dispose of surplus electricity for lighting and power purposes to municipalities, corporations and persons along said railway, subject to the provisions of *The Power Commission Act*; and whereas it is expedient to ^{7 Edward VII. c. 19.} grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The said Charles Michael Garvey, William Herbert ^{Incorporation.} Price, James Francis Coughlin, Ninian R. Lindsay and such other persons and corporations as shall hereafter become shareholders in the said Company are hereby constituted a body corporate and politic, under the name of "The Monarch Railway Company," hereinafter called "the Company."

2. The Company is authorized and empowered to survey, ^{Location of line.} lay out, construct, complete, equip and maintain a railway, to be operated by steam, electricity, or other motive power, from some point in the Township of York at or near the northerly limit of the City of Toronto, in the County of York; thence northerly through the Townships of York, Vaughan and King, in the said County of York, the Townships of West Gwillimbury, Innisfil and Vespra, in the County of Simcoe, to a point at, in or near the Town of Barrie, in the said County of Simcoe; thence in a northeasterly direction through the Townships of Vespra, Oro and Orillia, to a point at, near or in the Town of Orillia, all in the said County of Simcoe; thence northerly through the Townships of Orillia, Medonte, Tay and Tiny to a point at or near the Town of Penetanguishene, in the said County of Simcoe, and in its course through all the above-named townships passing through or touching all or any of the various towns or villages lying in its route; with a branch from a point at, in or near the said Town of

Barrie

Barrie; thence in a northwesterly direction through the Townships of Vespria, Sunnidale and Nottawasaga, in the said County of Simcoe, the Townships of Collingwood, St. Vincent and Sydenham, in the County of Grey, to a point at, in or near the Town of Owen Sound, in the said County of Grey; thence northerly through the Townships of Sarawak and Keppel, in the said County of Grey, and Amabel, in the County of Bruce, to a point at, in or near the Town of Wiarton, in the said County of Bruce, and in its course through all the said above-named townships, passing through or touching any or all of the various towns and villages lying in its route; with a branch from a point at, in or near the Village of Bradford in the said County of Simcoe, thence through the Townships of West Gwillimbury and Innisfil in the said County of Simcoe to a point near the shore of Lake Simcoe at or near the 11th or 12th Concession of the said Township of Innisfil; and with a branch from a point at, in or near the said Town of Barrie, thence in a northeasterly direction through the said Township of Innisfil to a point near the shore of Lake Simcoe at or near the said 11th or 12th Concession of the said Township of Innisfil and in its course through the above-named Townships passing through or touching any or all of the various towns and villages lying in its route.

Provisional
Directors.

3. The said Charles Michael Garvey, William Herbert Price, Ninian R. Lindsay and Stephen Ferdinand Adalia shall be the provisional directors of the company.

Capital stock.

4. The capital stock of the Company hereby incorporated shall be \$1,000,000.

Bonds.

5. The Company may issue bonds, debentures or other securities to the extent of \$25,000 per mile of single track of the railway constructed or under contract to be constructed.

Board of
Directors.

6. The Board of Directors of the Company shall consist of not less than five or more than nine persons.

Head office.

7. The head office of the Company shall be at the City of Toronto, in the County of York.

Running
arrangements
with other
companies.

8. Subject to the provisions of *The Ontario Railway Act, 1906*, the Company shall have power to make traffic or running arrangements with the Canadian Pacific Railway Company, the Grand Trunk Railway Company, the Cana-

6 Edw. VII,
c. 30.

dian

dian Northern Railway Company and the Metropolitan Railway Company upon such terms as may be agreed upon.

9.—(1) The Company may enter into contracts for the purpose of disposing of surplus electricity for lighting and power purposes to municipalities, corporations and persons along said railway subject to the provisions of *The Power Commission Act*. Contracting for disposing of power. 7 Edw. VII., c. 19.

(2) The Company shall not supply electricity in any municipality except under a by-law passed by the council of the municipality, or under an agreement entered into with the municipal corporation, and no such by-law or agreement shall take effect or be binding upon the municipality until the same has been approved by the Hydro-Electric Power Commission of Ontario. Restrictions in municipalities.

(3) The rates chargeable by the Company for supplying electricity shall at all times be subject to the supervision of the Hydro-Electric Power Commission of Ontario, and upon the complaint in writing of any municipal corporation, company or person that the Company is charging rates which are excessive or unfair, or is unjustly discriminating against or in favour of any municipal corporation, company or person, the Chairman of the Commission may appoint a time and place at which the said Commission, or some member thereof, will hear and determine the matter in dispute. Rates for supply.

(4) Such notice of such appointment as the Chairman may direct shall be given by the Secretary of the said Commission to all parties concerned. At the time and place appointed the said Commission, or, with the consent of all parties, any member of the said Commission shall hear and determine the matter in dispute, and shall make an order dismissing or allowing the complaint and directing what rates shall be charged by the Company, and directing the amendment of any by-law or agreement accordingly. Disputes as to rates charged.

(5) The said Commission, or the member thereof conducting the hearing, shall have the powers authorized to be conferred upon a commissioner appointed under *The Public Inquiries Act*. Powers of Commission. 8 Edw. VII., c. 8.

(6) If the Company neglects or refuses to obey or carry out the order or direction of the said Commission, or the member thereof conducting such case, it shall forfeit to His Majesty for the uses of the Province the sum of \$100 for every day during which such refusal or neglect shall continue. Penalty for disobeying orders of commission.

(7) The Company shall keep entirely separate and distinct all accounts, contracts, statements and records thereof Separate accounts to be kept.

relating

relating to the construction, development and transmission of the said power, and such accounts shall not in any way become involved or mixed with the accounts for the construction, maintenance or operation of the said railway.

Application of
6 Edw. VII.,
c. 30.

10. The provisions of *The Ontario Railway Act, 1906*, except where inconsistent with the provisions of this Act, shall apply to the Company and the railway to be constructed by it.

CHAPTER 145.

An Act respecting The Morrisburg Electric Railway Company.

Assented to 19th March, 1910.

WHEREAS The Morrisburg Electric Railway Com-^{Preamble.}
pany was incorporated by an Act passed in the eighth year of His Majesty's reign, chaptered 130, as amended by an Act passed in the ninth year of His Majesty's reign, Chaptered 136, for the purpose of constructing and operating an electric railway between the points set out in the said Acts; and whereas the company has by its petition prayed that an Act may be passed amending the said Acts, by changing the name of the company to "The Morrisburg and Ottawa Electric Railway Company"; reducing the capital stock of the company to \$500,000; authorizing the company to issue bonds, debentures or other securities to the extent of twenty thousand dollars per mile of railway constructed or under contract to be constructed; and to enter into contracts for the purpose of disposing of surplus electricity for lighting and power purposes to municipalities, corporations and persons along said railway, subject to the provisions of *The Power Commission Act*; and to extend the time for the commencement and completion of the said railway; and whereas, it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The name of The Morrisburg Electric Railway Com-^{Change of name.}
pany is changed to "The Morrisburg and Ottawa Electric Railway Company."

2. Section 5 of the said Act passed in the eighth year of His Majesty's reign, Chaptered 130, as amended by section 2 of the said Act passed in the ninth year of His Majesty's reign, Chaptered 136, is repealed.^{8 Edw. VII. c. 130, s. 5, as amended by 9 Edw. VII. c. 136, s. 2, repealed.}

Capital
stock.

3. The capital stock of the company shall be \$500,000.

Issue of
bonds.

4. The company may issue bonds, debentures or other securities to an amount not exceeding \$20,000 per mile of the railway constructed or under contract to be constructed.

Power to
supply elec-
trical power.

5.—(1) The company may enter into contracts for the purpose of disposing of surplus electricity for lighting and power purposes to municipalities, corporations and persons along said railway subject to the provisions of *The Power Commission Act*.

7 Edw. VII,
c. 19.

By-law to be
passed by
municipality
and approved
of by Hydro-
Electric
Power Com-
mission.

(2) The company shall not supply electricity in any municipality except under a by-law passed by the council of the municipality or under an agreement entered into with the municipal corporation, and no such by-law or agreement shall take effect or be binding upon the municipality until the same has been approved by The Hydro-Electric Power Commission of Ontario.

Rate for
supply.

(3) The rates chargeable by the company for supplying electricity shall at all times be subject to the supervision of the Hydro-Electric Power Commission of Ontario, and upon the complaint in writing of any municipal corporation, company or person that the company is charging rates which are excessive or unfair or is unjustly discriminating against or in favour of any municipal corporation, company or person, the chairman of the Commission may appoint a time and place at which the said Commission or some member thereof shall hear and determine the matter in dispute.

Disputes as
to rates
charged.

(4) Such notice of such appointment as the chairman may direct shall be given by the Secretary of the said Commission to all parties concerned. At the time and place appointed, the said Commission, or with the consent of all parties, any member of the said Commission shall hear and determine the matter in dispute and shall make an order dismissing or allowing the complaint and directing what rates shall be charged by the company and directing the amendment of any by-law or agreement accordingly.

Power of
Commission.

8 Edw VII,
c. 8.

(5) The said Commission or the member thereof conducting the hearing, shall have the powers authorized to be conferred upon a Commissioner appointed under *The Public Inquiries Act*.

Penalty.

(6) If the company neglects or refuses to obey or carry out the order or direction of the said Commission or the

member

member thereof conducting such case, it shall forfeit to His Majesty for the use of the Province \$100 for every day during which such refusal or neglect shall continue.

(7) The company shall keep entirely separate and distinct all accounts, contracts, statements and records thereof relating to the construction, development and transmission of the said power, and such accounts shall not in any way become involved or mixed with the accounts for the construction, maintenance or operation of the said railway. Separate accounts to be kept.

6. Subject to the provisions of *The Ontario Railway Act, 1906*, the company may arrange and contract with any existing Railway Company for running arrangements from a point in or near the City of Ottawa to and into the said City. Entrance into City of Ottawa.

7. Notwithstanding anything contained in *The Ontario Railway Act, 1906*, the railway authorized by the said Act passed in the eighth year of His Majesty's reign, Chaptered 130, as amended by the said Act passed in the ninth year of His Majesty's reign, Chaptered 136, shall be commenced within two years, and completed within five years after the passing of this Act, and if the construction of the railway is not commenced and fifteen per cent. of the amount of capital stock is not expended thereon within two years after the passing of this Act, or if the railway is not completed and put in operation within five years from the passing of this Act, then the powers granted to the company by the said Acts and by this Act shall cease and be null and void as regards so much of the railway as then remains uncompleted. Time for commencement and completion extended.
6 Edw VII.
c. 30.

CHAPTER 146.

An Act to incorporate The Niagara Falls, Welland and Dunnville Electric Railway Company.

Assented to 19th March, 1910.

Preamble.

WHEREAS Francis Ramsay Lalor, of the Town of Dunnville, in the County of Haldimand, Manufacturer; Franklin Buell, of the City of Buffalo, in the State of New York, Esquire; John Carlton Gardner, of the City of Niagara Falls, in the County of Welland, Engineer; George Arnold, of the Village of Ridgville in the said County of Welland, Agent; Frank Elam Misener, of the Township of Wainfleet, in the said County of Welland, Farmer; George Hamilton Bugar, of the Town of Welland, in the said County of Welland, Postmaster, and Hugh Alexander Rose, of the same place, Barrister-at-Law, have, by their petition, prayed for an Act of Incorporation, under the name of "The Niagara Falls, Welland and Dunnville Electric Railway Company," for the purpose of constructing and operating an electric railway, from a point in or near the City of Niagara Falls, in the County of Welland, through the Townships of Stamford, Thorold, Crowland, Town of Welland, the Townships of Humberstone and Wainfleet, in the said County of Welland, the Townships of Moulton and Sherbrooke in the County of Haldimand, to a point in or near the Town of Dunnville, in the said County of Haldimand, and a branch from some point on the main line at or near Chambers Corners, through the said Township of Wainfleet and the Township of Pelham, in the said County of Welland, to the Village of Fenwick, through the said Townships of Pelham and Thorold to a point on the main line at or near Allanburgh, in the said Township of Thorold; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said Francis Ramsay Lalor, Franklin Buell, John Carlton Gardner, George Arnold, Frank Elam Misener, George Hamilton Bugar, and Hugh Alexander Rose, and such other persons and corporations as shall hereafter become shareholders in the said Company, are hereby constituted a body corporate and politic under the name of "The Niagara Falls, Welland and Dunnville Electric Railway Company." Incorporation.

2. The said John Carlton Gardner, George Arnold, Frank Elam Misener, George Hamilton Bugar, and Hugh Alexander Rose, are constituted provisional directors of the Company. Provisional directors.

3. The date of the annual meeting of the shareholders shall be fixed by the By-laws of the Company. Annual meeting.

4. The capital stock of the Company shall be \$200,000. Capital stock.

5. The Head Office of the Company shall be at the Town Head office. of Welland, in the said County of Welland

6. The Board of Directors of the Company shall consist of not less than five, nor more than nine persons. Number of directors

7. The Company is authorized and empowered to survey, lay out, construct, complete, equip and maintain a railway to be operated by electricity, from a point in or near the City of Niagara Falls, in the County of Welland, through the Townships of Stamford, Thorold, Crowland, Town of Welland, the Townships of Humberstone and Wainfleet, in the said County of Welland, the Townships of Moulton and Sharbrooke in the County of Haldimand, to a point in or near the Town of Dunnville, in the said County of Haldimand; and a branch from some point on the main line at or near Chambers Corners, through the said Township of Wainfleet and the Township of Pelham, in the said County of Welland to the Village of Fenwick, through the said Townships of Pelham and Thorold to a point on the main line at or near Allanburgh, in the said Township of Thorold. Location of line.

8. The Company may issue bonds, debentures, or other securities to the extent of \$20,000 per mile of the railway constructed or under contract to be constructed. Bonds.

9. The provisions of *The Ontario Railway Act, 1906*, in so far as they apply to railways to be operated by electricity, shall apply to the Company, and the railway to be constructed by it. Application of 6 Edw VII., c. 30.

CHAPTER 147.

An Act to incorporate The Nickel Range
Railway Company.*Assented to 7th March, 1910.*

Preamble

WHEREAS the Dominion Nickel Copper Company, Limited, John Rudolphus Booth and J. Frederick Booth, both of the City of Ottawa, Lumbermen, Michael J. O'Brien, of the City of Montreal, Contractor, John Newton Glidden, of the Town of Sudbury, Manager, Frank B. Chapin, Capitalist, and James J. McFadden, Lumberman, both of the City of Toronto, William Anderson, of the City of Ottawa, Lumberman, and Cornelius Arthur Masten, of the said City of Toronto, King's Counsel, have by their petition prayed for an Act of Incorporation under the name of "The Nickel Range Railway Company," for the purpose of constructing and operating by steam or electricity, a railway in the District of Sudbury from some point in, at or near Onaping Station, on the Canadian Pacific Railway, in the Township of Dowling; thence through the northerly part of the said Township of Dowling; thence in a north-easterly direction through the Townships of Levaack, Morgan, Lumsden or Foy, and Bowell; thence in a more easterly direction through the Township of Wisner, connecting with the Canadian Northern Railway at some point in the easterly part of said Township of Wisner; thence in an easterly direction through the Township of Norman to about Lots Four (4) and Five (5) in the Fourth (4th) and Fifth (5th) Concessions of said Township of Norman; thence in a south-easterly direction through the said Township of Norman; thence through the Townships of Capreol, Macleannan and Falconbridge to such a point on the Canadian Pacific Railway in the Township of Dryden as may seem advantageous; together with such branch lines not exceeding twelve miles in length as may be necessary or convenient for the purpose of developing and operating the mining lands in the locality, and for the advantageous and convenient conduct of mining and smelting operations in connection therewith, and for entering roast yards and other works used in connection with such operations; and whereas it is expedient to grant the prayer of the said petition;

Therefore

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:

1. The said The Dominion Nickel Copper Company, ^{Incorporation.} Limited, John Rudolphus Booth, Michael J. O'Brien, John Newton Glidden, Frank B. Chapin, James J. McFadden, William Anderson, J. Frederick Booth and Cornelius Arthur Masten, and such other persons, firms and corporations as shall hereafter become shareholders of the said Company, are hereby constituted a body corporate and politic under the name of "The Nickel Range Railway Company," hereinafter called the "Company."

2. The Company is hereby authorized and empowered to ^{Location of Line} lay out, construct, equip, maintain and operate by steam or electricity, or partly by one and partly by the other a railway in the District of Sudbury from some point in, at or near Onaping Station, on the Canadian Pacific Railway, in the Township of Dowling, thence through the northerly part of the said Township of Dowling, thence in a north-easterly direction through the Townships of Levack, Morgan, Lumsden or Foy and Bowell; thence in a more easterly direction through the Township of Wisner, connecting with the Canadian Northern Railway at some point in the easterly part of the said Township of Wisner; thence in an easterly direction through the Township of Norman to about Lots Four (4) and Five (5) in the Fourth (4th) and Fifth (5th) Concessions of said Township of Norman; thence in a south-easterly direction through the said Township of Norman; thence through the Townships of Capreol, Macleannan and Falconbridge to such a point on the Canadian Pacific Railway in the Township of Dryden as may seem advantageous; together with such branch lines not exceeding twelve miles in length as may be necessary or convenient for the purpose of developing and operating the mining lands in the locality and for the advantageous and convenient conduct of mining and smelting operations in connection therewith, and for entering roast yards and other works used in connection with such operations.

3. The persons, other than The Dominion Nickel Copper ^{Provisional Directors.} Company, Limited, named in section 1 of this Act shall be the Provisional Directors of the Company.

4. The number of Directors shall be not less than five and ^{Number of Directors.} not more than nine.

5. The capital stock of the Company shall be two hundred ^{Capital Stock.} thousand dollars.

Head Office

6. The Head Office of the Company shall be at the City of Ottawa.

Time for commencement and completion.

7. The railway authorized by this Act shall be commenced within three years and completed within five years from the passing of this Act; and if the construction of the railway is not commenced and fifteen per cent. of the amount of the capital stock is not expended thereon within three years from the passing of this Act, or if the railway is not completed and put in operation within five years from the passing of this Act, then the powers granted to the Company by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

Agreements with other railway companies.

8. Subject to the provisions of *The Ontario Railway Act, 1906*, the Company may enter into agreements with the Temiskaming and Northern Ontario Railway, the Grand Trunk Pacific Railway Company, the Canadian Pacific Railway Company, the Canadian Northern Railway Company and any other railway or transportation company which may be constructed and operated in any portion of the country to be served by the proposed undertaking hereby authorized for any of the purposes specified in section 58 of *The Ontario Railway Act, 1906*.

Bonds debentures, etc.

9. The Company may issue bonds, debentures or other securities to the extent of \$30,000 per mile of railway constructed or under contract to be constructed.

Application of 8 Edw. VII. c. 30.

10. The provisions of *The Ontario Railway Act, 1906*, except where inconsistent with the provisions of this Act, shall apply to the Company and the railway constructed or to be constructed by it.

CHAPTER 148.

An Act respecting the North Midland
Railway Company.*Assented to 7th March, 1910.*

WHEREAS the North Midland Railway Company was Preamble
incorporated by an Act passed in the fourth year of
the reign of His Majesty King Edward the Seventh, Chap-
tered 84, as amended by an Act passed in the sixth year
of His Majesty's reign, Chaptered 112, and as further
amended by an Act passed in the eighth year of His Majesty's
reign, Chaptered 133, for the purpose of constructing and
operating an electric railway as therein described; and
whereas the said Company has by its petition prayed
that the time for the commencement and completion of the
said railway may be extended; and whereas it is expedient to
grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and con-
sent of the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Section 2 of the Act passed in the eighth year of His
Majesty's reign, Chaptered 133, is repealed. 8 Edw. VII.,
c. 133, s. 2.
repealed.

2. The railway authorized by the said Acts and by this
Act shall be commenced within two years and completed
within three years after the passing of this Act; and if the
construction of the railway is not commenced and fifteen per
cent. of the amount of the capital stock is not expended
thereon within two years after the passing of this Act, or if
the railway is not completed and put in operation within
three years from the passing of this Act, then the powers
granted to the company by the said Acts and by this Act
shall cease and be null and void as respects so much of the
railway as then remains uncompleted. Time for
commence-
ment and
completion.

CHAPTER 149.

An Act respecting The Peoples Railway Company.

Assented to 19th March, 1910.

Preamble.

WHEREAS The Peoples Railway Company has by petition represented that the said Company was incorporated under the name of "The Peoples Railway Company" by an Act passed in the ninth year of His Majesty's reign, chaptered 141, for the purpose of constructing and operating an electric railway from some point in or near the City of Woodstock, in the County of Oxford, by way of the Villages of Plattsville, in the Township of Blenheim, in the said County of Oxford, New Hamburg and Baden, in the Township of Wilmot, in the County of Waterloo and the Town of Berlin, in the said County of Waterloo, the City of Guelph, in the County of Wellington, and the Villages of Fergus, in the Township of West Garafraxa, and Elora, in the Township of Nichol, in the said County of Wellington, to the Village of Arthur, in the Township of Arthur, in the said County of Wellington, with a branch from, at or near the said Village of New Hamburg to the City of Stratford, in the County of Perth via the Village of Tavistock, in the Township of East Zorra, in the said County of Oxford; and whereas the said Company has by its petition prayed that the proposed railway be extended as hereinafter set out; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

9 Edw. VII.
c. 141, s. 2,
amended.

1. Section 2 of the Act passed in the ninth year of His Majesty's reign, Chaptered 141, and intituled *An Act to incorporate The Peoples Railway Company* is amended by adding at the end of said section the following words: "Also a branch or extension from a point on the main line of the railway at or near the Village of New Hamburg, in the Township of Wilmot, in the County of Waterloo, to the Village of Wellesley, in the Township of Wellesley, in the said County of Waterloo; also a branch or extension from a point

point on the main line of the railway at or near the Village of Baden, in the said County of Waterloo, to the said Village of Wellesley; also a branch or extension from a point on the main line of the railway east of Petersburg, in the said Township of Wilmot, via the Village of New Dundee, in the said Township of Wilmot, through the Township of Blenheim, in the County of Oxford, to a point at or near the Village of Ayr, in the Township of North Dumfries, in the said County of Waterloo."

CHAPTER 150.

An Act respecting The St. Thomas Street Railway

Assented to 7th March, 1910.

Preamble.

WHEREAS the Municipal Council of the City of St. Thomas have by their petition represented that the St. Thomas Street Railway is owned by the said municipal corporation, but by the Act passed in the third year of the reign of His Majesty, King Edward VII., Chaptered III., the management, control and operation of the said railway was placed in the hands of a board of street railway commissioners; and whereas such management has proven both unsatisfactory and expensive, and the council of the said city have had yearly to provide funds in addition to the receipts necessary for the operation of the said railway; and whereas since the passing of the said Act the city has acquired and now owns and operates its own electric lighting and power plant, which furnishes the power for the street railway, and such electric lighting, power and street railway plants are situate on the same premises and contained in the same building and the electric lighting and power plant is under the control of the City Council and it is desirable that the two utilities should be amalgamated and placed under one management and control; and whereas the council of the said city have petitioned that the said Act should be amended accordingly, and it is desirable to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

3 Edw. VII.,
c. 111, ss. 2,
3, and 4
repealed.

1. Sections 2, 3 and 4 of the Act passed in the 3rd year of His Majesty's reign, Chaptered III., are repealed.

Council to
have control
of Street
Railway.

2. From and after the passing of this Act the management, control and operation of the St. Thomas Street Railway shall be vested in the council of said city, who shall thenceforward have sole authority over the same.

3. The Council of the City of St. Thomas may place in the annual estimates of the current expenditure of the corporation, such sum as may be necessary to provide for the maintenance and operation of the said street railway, and may raise the same annually by a general rate on all rateable property in the said city at the same time and in the same manner as other municipal rates are levied and collected.

Funds for maintenance and operation of railway.

CHAPTER 151.

An Act respecting Simcoe Railway and Power Company.

Assented to 19th March, 1910.

Preamble.

WHEREAS Simcoe Railway and Power Company was incorporated by an Act passed in the ninth year of His Majesty's reign, Chaptered 145, for the purpose of developing a certain water power on the Severn River, known as "the Big Shute," and to transmit the same to the town of Midland and other places, and with power to construct and operate a railway as provided for in the said Act; and whereas the said Company has by its petition represented that it has secured a lease of the said water power, and has proceeded to develop the same, and has expended a considerable sum thereon, and has secured the right to use certain roads and road allowances in the County of Simcoe, under By-law No. 956, of the Corporation of the County of Simcoe, By-law No. 472 of the Corporation of the Township of Tay, and By-law No. 142 of the Corporation of the Township of Matchedash, and it is desired to confirm and validate the said by-laws; and whereas by reason of the said fact that the said company have not yet had sufficient time to develop the said water power, although they have proceeded promptly with the work thereon, and the same will not be finished for a considerable period, the Company desire an extension of time within which to commence and complete the construction of the railway as provided for in the said Act; and whereas by reason of the repealing of parts of *The Act respecting Companies for supplying Steam, Heat, Electricity, or Natural Gas for Heat, Light or Power*, certain doubts have arisen as to the powers of the Company, and it is desired to clear up the said doubts and have it declared that the said Company, in respect of the development, transmission and sale of the said power, shall have all the powers and privileges of any Company incorporated under *The Ontario Companies Act*; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Subject to the provisions of subsection 2 By-law No. 956 of the Corporation of the County of Simcoe, By-law No. 472 of the Corporation of the Township of Tay, and By-law No. 142 of the Corporation of the Township of Matchedash, as set out in full in Schedules "A," "B" and "C" hereto, are hereby confirmed, validated and declared to be legal, valid and binding upon the said Corporations, and the ratepayers thereof, and the said Company.

By-law No.
956 of County
of Simcoe.
No. 472 of Tp.
of Tay and
No. 142 of Tp.
of Matched-
ash, con-
firmed.

(2) Subsection 1 of this section shall not come into force until the said by-laws have been approved of by order of the Lieutenant-Governor in Council and until such order has been published in the *Ontario Gazette*.

2. The railway authorized by the said Act shall be commenced within a period of two years, and completed within a period of five years from and after the passing of this Act; and if the construction of the said railway is not commenced and fifteen per cent. of the estimated cost of the said railway is not expended thereon within two years and if the railway is not finished and put in operation within five years from the passing of this Act then the powers granted to the Company by the said Act, and by this Act, shall cease and be null and void as respects so much of the railway as then remains incomplete, but nothing in this section contained shall affect the rights, powers or privileges of the said company, apart from the said railway.

Time for com-
mencement
and comple-
tion of rail-
way.

3. To remove doubts it is declared that the said Company has, and always has had since its incorporation, all the rights, powers and privileges granted to a Company incorporated under *The Ontario Companies Act*, for the following purposes, viz.:

Powers of
Company.

(a) To carry on the business of an Electric Light and Power Company in all its branches, and generally to provide, purchase, lease or otherwise acquire, and to contract for, lay down, erect, establish, operate, maintain and carry out all necessary works, stations, engines, machinery, plant, cables wires, lines, generators, lamps, meters, transformers, and all apparatus connected with the development, generation, accumulation, distribution, transmission, supply, use and employment of electricity, electric power, light and heat, for industrial, manufacturing, municipal, or other purposes, and to undertake and enter into contracts and agreements for the sale of light, heat or power, in the County of Simcoe, or District of Muskoka, for all public, municipal or private purposes therein.

(b) To sink wells and shafts and to make, build, contract for and erect, lay down and maintain receivers, dams, converts, mains, transmission lines, pipes and appliances to do
all

all works and things necessary or convenient for obtaining, storing and distributing water for the creation, maintenance, or development of hydraulic, electric or other mechanical power.

(c) From time to time to apply for, purchase or acquire by assignment, transfer or otherwise, and to exercise, carry out and enjoy any statute, ordinance, order, license, power, authority, franchise, concession, right or privilege, which any Government or other authority, supreme, municipal or local, or any corporation or other public body may be empowered to enact, make or grant, and to pay for and contribute towards carrying the same into effect, and to appropriate any of the Company's stock, bonds and assets to defray the necessary costs, charges and expenses thereof. The said Company shall in respect of its said powers have the right to issue bonds, provided the same do not exceed the cost of the said works, as provided for in the Act of Incorporation. The said Company shall, in respect of its operations as a Power Company, make the regular returns provided for by sections 131 and 165 of *The Ontario Companies Act*.

Company to supply Village of Coldwater with electrical power on request of Hydro-Electric Commission.

4. Whenever the village of Coldwater shall apply to "The Hydro-Electric Power Commission of Ontario" for a supply of electrical power, such Commission may require the said Company to construct an electric pole line to and in such village of a standard to be approved by such Commission and to furnish to such village by a day named, such electrical power as such Commission may think proper at such rates and on such terms and conditions as may be fixed and determined by such Commission.

SCHEDULE "A."

COUNTY OF SIMCOE.

BY-LAW NO. 956.

A By-law of the Corporation of the County of Simcoe for the purpose of allowing The Simcoe Railway and Power Company the use of certain roads and road allowances in the Townships of Tay, Matchedash, Tiny and Medonte, for the purpose of erecting a pole line for the transmission of electricity.

Whereas the Simcoe Railway and Power Company are about to develop the power of the Falls on the Severn River, known as the Big Chute, to transmit the same by means of an electric pole line to the Towns of Midland and Penetanguishene, and other points in the Townships of Tay, Matchedash, Tiny and Medonte, and the two former Townships have passed By-laws for the purpose of allowing the said Company the use of certain roads and road allowances for that purpose.

And whereas part of the said pole line will be situated on the County Road System, and it is desirable to grant the said Company the use of the same upon the terms and subject to the conditions hereinafter contained.

Therefore the Council of the Corporation of the County of Simcoe, enact as follows:—

The

The Simcoe Railway and Power Company are hereby authorized (in so far as the said Council has power to so authorize) to erect poles and string wires thereon along such parts of the County Roads System within the said Townships as may be necessary for the purpose of a pole line from the Falls of the Severn River known as the Big Chute for the transmission of Electric Power to the Towns of Midland and Penetanguishene and other points in said Townships, but for no other purpose, and subject to the following conditions:—

1. The said Company shall file with the County Engineer a map and survey showing the proposed pole line, and the distance and extent thereof, and the roads and road allowances which it is proposed to use, and such plan shall be filed for at least one month before any work is begun thereunder, and the County of Simcoe reserves the right by their said engineer or any Committee or other officer appointed for that purpose, to determine in what position on such road or highway the said pole line shall be placed.

2. The said pole line shall be constructed and maintained in a substantial, thorough, proper and workmanlike manner, and with the most modern appliances now or hereafter in use, for the prevention of accidents, and in accordance with the following specifications:—

(a) All poles shall be reasonably sound and straight, cleanly barked and closely knotted, sunk not less than five feet in the ground, and having a height of not less than twenty-five feet from the surface of the ground to the cross-arms carrying the wires, and the said poles shall not be less than six inches in diameter at the top or thinnest part thereof.

(b) The said poles shall not be more than one hundred feet apart.

(c) The said poles shall be placed in such position on the said highways as the County engineer shall direct, where any trees under the control of, belonging to, or the property of, the said County, are trimmed or cut down, it shall only be done under the direction of the said County Engineer, and with the consent of the said County Engineer, but this is not to relieve the said Company from obtaining any other necessary consent or power to so trim or cut them down.

(d) All trees killed or injured are to be paid for by the said Company at their fair and reasonable value.

(e) All poles where necessary, shall be securely guyed with guys properly anchored, and the said Company shall secure all privileges from private individuals for that purpose, which may be necessary, and shall at all times keep the poles in an upright and safe condition, and the wires firmly and securely attached to the poles.

3. All expenses of laying out the line for the poles and under this By-law shall be paid for by the said Company.

4. The said Company shall indemnify and save harmless, the said county from all damages or claims for damages, of every kind resulting from, or in any way occasioned by the granting of the privileges herein conferred or by the erection by the said Company of the said poles and wires, and after erection, from all damages or claims for damages of every kind resulting from, or in any way occasioned by the maintenance, working or the existence of their line, or the transmission of power along their wires or through any default or action on the part of the said Company, or their agents or servants or imperfections of their wires or otherwise howsoever, and from all costs that the said County may be put to

in

in defending themselves in connection with any of such claims or otherwise, howsoever, by reason of the said privileges hereunder being so conferred.

5. No exclusive rights are hereby granted, and in the event of the rights hereunder being at any time hereafter taken over by the County of Simcoe, or any municipality therein, no price or value shall be allowed therefor to said Company.

6. Where in the judgment of the said county engineer, it shall become necessary to remove any poles, the said Company shall do so at their own expense, such removal being considered necessary by the said engineer.

7. In case of any trouble or dispute arising between the said county or Company, and any Telephone or Telegraph Company by reason of privileges hereby conferred, or in the exercise of them, the said Company shall save the said county harmless from all loss, costs or damages that may be incurred.

8. If the Company wish to do so, they may at their own expense, cost and charge, apply to the Legislature of the Province of Ontario, for a Private Act of Parliament confirming this By-law, but it is understood that such application shall be made entirely at the Company's expense and without any liability or obligation upon the county.

9. This By-law shall be null and void if poles are not erected and the line in operation, as in this By-law specified, on or before the first day of July, 1911.

10. The terms, provisions and stipulations of this By-law are to be strictly observed, kept and fulfilled by the said Company, and if the said Company fail to observe, keep and fulfil all the said terms, provisions and stipulations hereof, or if at any time the said pole line is being used for purposes otherwise than as herein contemplated, or is not being maintained with due regard to the safety of the public, or if any claim of any kind shall be established against the said county in any court of law or equity (or be admitted by the said county and Company) which the said Company ought to pay by reason of the premises, and on default of payment thereof by the said Company within thirty days after judgment therefor shall have been recovered against the said county, or admission of liability as aforesaid, or in default of the discharge of the said county from any of such claims, all rights and privileges granted hereunder shall immediately after the happening of any such events, cease and be at an end, and the said Company shall thereupon remove their poles and wires from the said County Road System.

11. This By-law shall come into force and have effect from and **after the passing thereof.**

Passed in Council this Seventeenth day of June, A.D. 1909.

(Sgd.) R. BELL, L.S.
Warden.

[Seal]

(Sgd.) R. J. FLETCHER,
County Clerk.

SCHEDULE "B."

TOWNSHIP OF TAY.

BY-LAW NO. 472.

A By-law of the corporation of the Township of Tay for the purpose of allowing The Simcoe Railway and Power Company the use of certain roads and road allowances in the Township of Tay for the purpose of erecting a pole line for the transmission of electricity.

Whereas The Simcoe Railway and Power Company are about to develop the power at the Falls on the Severn River, known as the Big Chute, to transmit the same by means of an electric pole line to the Towns of Midland and Penetanguishene and other points, and it is desirable to grant the said Company the use of certain roads and road allowances upon the terms and subject to the agreements hereinafter contained.

Therefore the Corporation of the Township of Tay enacts as follows:

1. The Simcoe Railway and Power Company are hereby authorized to erect poles and string wires thereon along such roads, highways, or allowances for roads as may be necessary for the purpose of a pole line from the Falls on the Severn River, known as the "Big Chute," to the Towns of Midland and Penetanguishene and other points.

2. The said Company shall file with the Clerk of the Township of Tay a map and survey showing the proposed pole line and the distance and extent thereof, and the roads and road allowances which it is proposed to use, and such plan shall be filed for at least one month before any work is done thereunder, and the Township of Tay reserve the right by their officers, or any committee, or engineer, or other official, appointed by the Township Council, to determine in what position on such roads or highways that the said pole line shall be placed..

3. The said pole line shall be constructed in a substantial, thorough, proper and workmanlike manner, and with the most modern appliances for the prevention of accidents, and in accordance with the following specifications:

(a) All poles shall be reasonably sound and straight, clearly barked and closely knotted, sunk not less than five feet in the ground, and having a height of not less than twenty-five feet from the surface of the ground to the cross-arms carrying the wires, and the said poles shall not be less than six inches in diameter at the top or thinnest part thereof.

(b) The said poles shall not be more than one hundred feet apart.

(c) The said poles shall be placed in such position on the said highways as the Township Council or any committee thereof or engineer appointed in that behalf may direct.

Where any trees belonging to, or the property of the said Township are trimmed or cut down, it shall only be done under the direction of the said Township Council and with the consent of the said Township Council.

(d) All trees cut down or killed are to be paid for by the said Company at their fair and reasonable value.

(e) All poles, where necessary, shall be securely guyed with guys properly anchored, and the said Company shall secure all privileges

from

from private individuals for that purpose, which may be necessary, and shall at all times keep the poles in an upright and safe condition and the wires firmly attached to the poles.

4. All expenses of laying out the line for poles and under this By-law shall be paid for by the said Company.

5. The said Company shall indemnify and save harmless the said Township Corporation from all damages or claims for damages of every kind resulting from or in any way occasioned by the erection by the said Company of their poles and wires, and after erection from all damages or claims for damages of every kind resulting from or in any way occasioned by the working or the existence of their line, or the transmission of power along their wires, or through any default or action on the part of the said Company, or their agents or servants, or imperfections of their wires or otherwise, howsoever.

6. No exclusive rights are hereby granted.

7. Where in the judgment of the said Township Council it shall become necessary to remove any poles the said Company shall do so at their own expense, such removal being considered necessary by the Council.

8. In case of any trouble or dispute arising between the said Company and any telephone or telegraph Company, the said Company shall save the said Township harmless from all costs or damages that may be incurred.

9. The said Company shall not be chargeable for any rental of the said roads, and shall not be liable for any municipal assessment or taxations on the pole line only, and if the Company wishes to do so, they may, at their own expense, cost and charge, apply to the Legislature of the Province of Ontario for a Private Act of Parliament confirming this By-law, but it is understood that such application shall be made entirely at the Company's expense and without any liability or obligation upon the Township.

10. This By-law shall be null and void if poles are not erected and the line in operation, as in this By-law specified, on or before the First day of July, 1911.

Passed in Council this Twenty-eighth day of May, A.D. 1909.

(Sgd.) WALTER LAWSON,
Reeve.

[Seal.]

(Sgd.) T. W. BROWN,
Clerk.

SCHEDULE "C."

TOWNSHIP OF MATCHEDASH.

By-Law No. 142.

A By-law of the Corporation of the Township of Matchedash for the purpose of allowing the Simcoe Railway and Power Company the use of certain roads and road allowances in the Township of Matchedash for the purpose of erecting a pole line for the transmission of electricity.

Whereas the Simcoe Railway and Power Company are about to develop the power at the Falls on the Severn River, known as the "Big Chute," to transmit the same by means of an electric pole line to the Towns of Midland and Penetanguishene and other points, and it is desirable to grant the said Company the use of certain roads
and

and road allowances upon the terms and subject to the agreements hereinafter contained;

Therefore the Corporation of the Township of Matchedash enact as follows:

1. The Simcoe Railway and Power Company are hereby authorized to erect poles and string wires thereon along such roads, highways, or allowances for roads as may be necessary for the purpose of a pole line from the Falls on the Severn River, known as the "Big Chute," to the Towns of Midland and Penetanguishene and other points.

2. The said Company shall file with the Clerk of the Township of Matchedash a map and survey showing the proposed pole line and the distance and extent thereof, and the roads and road allowances which it is proposed to use, and such Plan shall be filed for at least one month before any work is done thereunder, and the Township of Matchedash reserve the right, by their officers or any committee or Engineer, or other official, appointed by the Township Council, to determine in what position on such roads or highways that the said pole line shall be placed.

3. The said pole line shall be constructed in a substantial, thorough, proper and workmanlike manner, and with the most modern appliances for the prevention of accidents, and in accordance with the following specifications:—

(a) All poles shall be reasonably sound and straight, clearly barked and closely knotted, sunk not less than five feet in the ground, and having a height of not less than twenty-five feet from the surface of the ground to the cross-arms carrying the wires, and the said poles shall not be less than six inches in diameter at the top or thinnest part thereof.

(b) The said poles shall not be more than one hundred feet apart.

(c) The said poles shall be placed in such position on the said highways as the Township Council, or any Committee thereof, or engineer appointed in that behalf, may direct.

Where any trees belonging to, or the property of the said Township, are trimmed or cut down, it shall only be done under the direction of the said Township Council and with the consent of the said Township Council.

(d) All trees cut down or killed are to be paid for by the said Company at their fair and reasonable value.

(e) All poles, where necessary, shall be securely guyed with guys properly anchored, and the said Company shall secure all privileges from private individuals for that purpose, which may be necessary, and shall at all times keep the poles in an upright and safe condition and the wires firmly attached to the poles.

4. All expenses of laying out the line for poles and under this By-law shall be paid for by the said Company.

5. The said Company shall indemnify and save harmless the said Township Corporation from all damages or claims for damages of every kind resulting from or in any way occasioned by the erection by the said Company of their poles and wires, and after erection from all damages or claims for damages of every kind resulting from or in any way occasioned by the working or the existence of their line, or the transmission of power along their wires, or through any default or action on the part of the said Company, or their agents or servants, or imperfections of their wires or otherwise, howsoever.

CHAPTER 152.

An Act to incorporate Toronto, Haliburton and
Pembroke Railway Company.*Assented to 7th March, 1910.*

Preamble.

WHEREAS William B. Russel, of the City of Toronto, in the County of York, Civil Engineer; Robert W. Gordon, Lumberman, Edward A. Dunlop, Merchant, John G. Forgie, Solicitor, and James F. Munro, Contractor, all of the Town of Pembroke, in the County of Renfrew; and Walter Bilbrough, Accountant, Strachan Johnston, Solicitor, and Reginald H. Parmenter, Solicitor, all of the City of Toronto, in the said County of York, have by their petition prayed for an Act of Incorporation under the name of "Toronto, Haliburton and Pembroke Railway Company", for the purpose of constructing and maintaining a railway to be operated by steam from a point at or near Barry's Bay, in the Township of Sherwood, in the County of Renfrew; thence in a generally south-westerly direction through the said Township of Sherwood, the Townships of Bangor, Wicklow and McClure, in the County of Hastings, and the Townships of Bruton, Harcourt, Harburn, Dudley and Dysart in the County of Haliburton to a point in or near the Village of Haliburton, in the said County of Haliburton, or, as an alternative route, from a point near the intersection of the Ottawa, Arnprior and Parry Sound Railway, with the boundary between the Township of Lyell and the Township of Jones, in the said County of Renfrew; thence in a generally southerly and westerly direction through the said Townships of Lyell, Wicklow, McClure, Bruton, Harburn, Dudley and Dysart to a point in or near the said Village of Haliburton, in the said County of Haliburton; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation.

1. The said William B. Russel, Robert W. Gordon, Edward A. Dunlop, John G. Forgie, James F. Munro, Walter Bilbrough, Strachan Johnston and Reginald H. Parmenter, and such persons, firms and corporations

as

as shall hereafter become shareholders of the Company are constituted a body corporate and politic under the name of "Toronto, Haliburton and Pembroke Railway Company," hereinafter called "the Company."

2. The said William B. Russel, Edward A. Dunlop, James F. Munro, Walter Bilbrough and Strachan Johnston, are hereby constituted provisional directors of the Company.

Provisional
directors.

3. The capital stock of the Company shall be one hundred thousand dollars.

Capital stock.

4. The Head Office of the Company shall be at the City of Toronto, in the County of York.

Head office.

5. The Board of Directors of the Company shall consist of not less than five nor more than nine persons.

Board of
Directors.

6. The Company is authorized and empowered to survey, lay out, construct, complete, equip and maintain a railway to be operated by steam, by the most feasible route or routes from a point at or near Barry's Bay, in the Township of Sherwood, in the County of Renfrew; thence in a generally south-westerly direction through the said Township of Sherwood, the Townships of Bangor, Wicklow and McClure in the County of Hastings, and the Townships of Bruton, Harcourt, Harburn, Dudley and Dysart in the County of Haliburton, to a point in or near the Village of Haliburton, in the said County of Haliburton or, as an alternative route, from a point near the intersection of the Ottawa, Arnprior and Parry Sound Railway with the boundary between the Township of Lyell and the Township of Jones, in the said County of Renfrew; thence in a generally southerly and westerly direction through the said Townships of Lyell, Wicklow, McClure, Bruton, Harburn, Dudley and Dysart to a point in or near the said Village of Haliburton, in the said County of Haliburton, and in its course through said Townships passing through or touching at any or all of the various incorporated towns and villages lying in its route, and to build branch lines from the said main lines hereinbefore authorized, none of which branch lines are to exceed twelve miles in length.

Location of
line.

7. The Company may issue bonds, debentures or other securities to the extent of \$30,000 per mile of railway constructed or under contract to be constructed.

Issue of
bonds.

8. The provisions of *The Ontario Railway Act, 1906*, shall apply to the Company and the railway constructed or to be constructed by it.

Application of
6 Edw. VII.,
c. 80.

CHAPTER 153.

An Act respecting The Toronto Suburban
Railway Company.*Assented to 19th March, 1910.*

Preamble.

WHEREAS The Toronto Suburban Railway Company was incorporated by an Act passed in the 57th year of Her late Majesty's reign, Chaptered 94, intituled An Act to incorporate the Toronto Suburban Street Railway Company, Limited, and has by petition represented that the company has constructed and is now operating its railway in that part of the City of Toronto formerly the City of West Toronto and surrounding municipalities; and that by an Act passed in the 63rd year of Her late Majesty's reign, Chaptered 124, the name of the company was changed to The Toronto Suburban Railway Company; and whereas by an Act passed in the first year of the reign of His Majesty, Chaptered 91, intituled An Act respecting The Toronto Suburban Railway Company, the company was authorized to extend its line of railway from its terminus at Lambton Mills, in the Township of York, in the County of York, to some point in the City of Hamilton, in the County of Wentworth; and whereas by an Act passed in the fourth year of the reign of His Majesty, Chaptered 94, the company was authorized to further extend its railway from a point in or near the City of Hamilton, in the County of Wentworth, to some point in or near the Town of Niagara Falls, in the County of Welland, with a branch from a point on the line of railway already constructed in or near the Village of Weston or some point between the village of Weston and the north limit of the Township of York, to the Village of Woodbridge, in the County of York, and also from a point on the line of railway already constructed in or near the Village of Weston or the Village of Lambton Mills, to the Town of Brampton, in the County of Peel, and also from a point on the line of railway thereby authorized in the Township of Thorold to the City of St. Catharines, in the County of Lincoln; and to the Town of Port Colborne

Colborne, in the County of Welland; and whereas by an Act passed in the ninth year of His Majesty's reign, Chaptered 148, a certain mortgage by the said company was confirmed and the time for the completion of the extensions and branches of the said railway was extended; and whereas the company has by its petition asked for authority to extend its line of railway from a point on its present authorized line in or near the Town of Brampton, in the County of Peel, to some point in or near the City of Guelph, in the County of Wellington, passing through or near the Townships of Chinguacousy, in the said County of Peel, and the Townships of Esquesing, Nassagaweya and the Towns of Georgetown and Acton, in the County of Halton, and the Townships of Erin, Eramosa, Guelph and Puslinch, in the said County of Wellington, and for other purposes; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The company is authorized and empowered to equip, ^{Extension of line.} maintain and operate an extension of its line of railway from a point in or near the Town of Brampton, in the County of Peel, to some point in or near the City of Guelph in the County of Wellington, passing through or near the Township of Chinguacousy, in the said County of Peel, and the Townships of Esquesing, Nassagaweya and the Towns of Georgetown and Acton, in the County of Halton, and the Townships of Erin, Eramosa, Guelph, and Puslinch, in the said County of Wellington.

2. Subsections (a), (b), (c), and (d) of Section 31, and Sections 32, 33, 34 and 35 of the Act passed in the first year of His Majesty's reign, Chaptered 91, are repealed.

3. Notwithstanding anything contained in any of the Acts ^{Issue of bonds, etc.} relating to the company, the company may issue from time to time bonds, debentures, perpetual or terminating debenture stock or other securities, to the extent of \$30,000 per mile of its railway heretofore constructed or which may be hereafter constructed or under contract to be constructed.

4. The rights, powers, privileges and franchises heretofore ^{Rights and powers conferred by general or special Acts to apply to extensions.} conferred upon the company by any general or special Act shall continue to apply to the said company, and to the extensions hereby authorized but nothing in this Act contained shall affect any agreement heretofore entered into between the company and any municipal corporation.

Application of
6 Edw. VII.
c. 30.

5. The provisions of *The Ontario Railway Act*, 1906, except where inconsistent with the provisions of this Act and of the said Acts passed in the 57th year of Her late Majesty's reign, Chaptered 94, the 63rd year of Her late Majesty's reign, Chaptered 124, the 1st year of His Majesty's reign, Chaptered 91, the 4th year of His Majesty's reign, Chaptered 94, and the 9th year of His Majesty's reign, Chaptered 148, shall apply to the said company and the railway constructed or to be constructed by it.

CHAPTER 154.

An Act to incorporate the Wahnapiitae Railway Company.

Assented to 7th March, 1910.

WHEREAS Donald D. Mann and David B. Hanna, both Preamble.
of the City of Toronto, in the Province of Ontario,
Railway Officials, Frank H. Phippen, of the same place, one
of His Majesty's Counsel, Gerard Ruel and George F.
Macdonnell, of the same place, Barristers, have petitioned
for an Act to incorporate a Company to construct a railway,
to be operated by steam or electricity, from a point on the
line of the Canadian Northern Ontario Railway, in
the Township of Hutton or the Township of Creelman, in
the District of Sudbury, thence in a generally northerly di-
rection, passing near Burwash and Welcome Lakes, to a point
on the Wahnapiitae River above the outlet from Welcome
Lake, such line traversing one or both of the said Townships
of Hutton and Creelman and unsurveyed territory in the
District of Nipissing to the north of such Townships; and
whereas it is expedient to grant the prayer of the said peti-
tion;

Therefore, His Majesty, by and with the advice and con-
sent of the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. The said Donald D. Mann, David B. Hanna, Frank Incorporation.
H. Phippen, Gerard Ruel and George F. Macdonnell, to-
gether with such other persons, firms and corporations as
shall hereafter become shareholders of the said Company
hereby incorporated, are hereby constituted and declared to
be a body corporate and politic by the name of the "Wahna-
piitae Railway Company," hereinafter called "the Com-
pany."

2. The Company is authorized and empowered to survey, Location
of line.
lay out, construct, complete, equip and maintain a railway to
be operated by steam or electricity, or part by one and part
by the other, from a point on the line of the Canadian
Northern Ontario Railway, in the Township of Hutton
or

or the Township of Creelman in the District of Sudbury, thence in a generally northerly direction, passing near Burwash and Welcome Lakes, to a point on the Wahnapitae River above the outlet from Welcome Lake, such line traversing one or both of the said Townships of Hutton and Creelman and unsurveyed territory in the District of Nipissing to the north of such Townships.

Head office.

3. The head office of the Company shall be located in the City of Toronto, in the Province of Ontario.

Provisional Directors.

4. The said Donald D. Mann, David B. Hanna and Frank H. Phippen shall be the Provisional Directors of the Company.

Number of Directors.

5. The number of Directors shall not be less than five, and not more than nine.

Capital stock.

6. The capital stock of the Company shall be \$250,000.

Bonds.

7. The Company may issue bonds, debentures or other securities to the extent of \$30,000 per mile of railway constructed or under contract to be constructed.

Application of
6 Edw. VII.
c. 80.

8. The provisions of *The Ontario Railway Act, 1906*, shall apply to the Company and the railway constructed or to be constructed by it.

CHAPTER 155.

An Act respecting The Western Central Railway Company.

Assented to 7th March, 1910.

WHEREAS The Western Central Railway Company, Preamble.
 hereinafter called the Company, by its Act of Incorporation passed in the fifth year of the reign of King Edward the Seventh, Chaptered 109, and by an Act amending the same passed in the sixth year of His Majesty's reign, Chaptered 125, as further amended by an Act passed in the eighth year of His Majesty's reign. Chaptered 137, was authorized to construct an electric railway and branches as set forth in the said Acts; and whereas the Company has by its petition prayed that the time for the construction of the said railway and branches may be extended; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:

1. Section two of the Act passed in the eighth year of His Majesty's reign, Chaptered 137, is repealed. 8 Edw. VII. c. 137, s. 2. repealed.

2. Notwithstanding anything contained in *The Ontario Railway Act, 1906*, the railway shall be commenced within one year and completed within five years after the passing of this Act and if the construction of the railway is not commenced, and \$250,000 is not expended thereon within one year after the passing of this Act, and if the railway is not completed and put in operation within five years after the passing of this Act then the powers granted by the Company's Act of Incorporation and Acts amending the same, and by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted. Time for commencement and completion.

CHAPTER 156.

An Act respecting The Cobalt Lake Mining Company, Limited.

Assented to 19th March, 1910.

Preamble.

WHEREAS the Cobalt Lake Mining Company has petitioned for an Act to enable the Company to reduce its authorized capital from \$5,000,000 to \$3,500,000 and for that purpose to purchase shares of the Company for cancellation; and whereas it is expedient to grant the prayer of the said Petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Reduction of capital stock.

1. The Cobalt Lake Mining Company is authorized and empowered to reduce its authorized capital from \$5,000,000 divided into 5,000,000 shares of the par value of \$1.00 to \$3,500,000 divided into 3,500,000 shares of the par value of \$1.00 each.

Purchase of stock by company.

2. The Company is further authorized and empowered for the purposes of such reduction, but not otherwise, to purchase on the floor of any recognized stock or mining exchange any shares of the capital stock of the said Company which may be offered for sale; provided that no such purchase shall be made until the directors have been expressly authorized by a By-law passed by them for the purpose, and confirmed by a vote of two-thirds of those shareholders present in person or by proxy at a general meeting of the Company.

CHAPTER 157.

An Act respecting Levying and Collecting Tolls on
the Mississippi River.*Assented to 19th March, 1910.*

WHEREAS The Mississippi River Improvement Com-^{Preamble.}
pany, Limited, has by its petition represented
that there are many valuable and active water powers
on the Mississippi River which are used for manufact-
uring purposes; and whereas on account of lack of water
there is, at certain times, not sufficient water flowing and
running in said river to duly carry on with advantage the re-
spective manufacturing industries driven by said water pow-
ers; and whereas on the ninth day of December, one thousand
nine hundred and nine, letters patent were issued to The
Mississippi River Improvement Company, Limited, for the
following purposes:—(a) To acquire by purchase all the in-
terest, right and title of James Morton Brown and Alexander
Caldwell Brown in the dams and real estate in connection
therewith owned by them at Cross Lake in the Township of
Palmerston and Gull Lake and Long Lake in the Township
of Clarendon, in the County of Frontenac, and Province of
Ontario; (b) To erect, construct and maintain at Cross Lake,
Gull Lake and Long Lake dams for the purpose of storing
water, and (c) To apply to the Legislature of the
Province of Ontario for such legislation as may be neces-
sary for the proper conduct of the business of the
Company; and whereas the building of said dams will
be of material benefit to the owners of the respective
water powers now being used upon said Mississippi River
and will be also of material benefit to other water powers in
and along said River upon said other water powers being
used; and whereas it is expedient that all the owners of water
powers now being used or which may hereafter be used should
contribute annually a sum sufficient to indemnify the said
The Mississippi River Improvement Company, Limited,
against the annual expenditure for maintenance and opera-
tion of the dams to be built at Cross Lake, Long Lake and

Gull Lake by the said The Mississippi River Improvement Company, Limited, and should also contribute annually the interest on all moneys invested from time to time by the said Company for the purposes set out in said letters patent; and whereas it is deemed expedient that the objects and prayer of the petitioners should be granted;

Now therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation of "owner."

1. In this Act the word "owner" or "owners" shall mean and include any private individual, incorporated company or municipality.

Power to take tolls.

2. The said "The Mississippi River Improvement Company, Limited," when any of the said dams are completed, may demand and take annually from the owner or owners of the said water powers in and along the said Mississippi River then being used and benefited by said dam or dams an annual toll in each year sufficient to pay to the said company interest at the rate of six per centum per annum on the money then invested by said company together with a sum sufficient to meet and satisfy the amount expended annually by the said company for maintenance and operation of the said dams and works incidental thereto, such annual toll on each water power owner to be assessed and levied upon the basis of the benefits said water power owner receives by the erection and maintenance and operation of the said dams, and the said company shall have the right, if necessary, to sue and recover therefor accordingly.

Town of Almonte authorized to take stock not exceeding \$10,000.

3. The Corporation of the Town of Almonte may subscribe for and become stockholders in The Mississippi River Improvement Company, Limited, to the extent of the surplus earning of the Electric Light plant owned by said Town, without obtaining the assent of the electors, to an amount not exceeding the sum of ten thousand dollars.

Hydro-Electric Commission to approve of plans, etc.

4. The works and improvements shall not be erected or constructed by the Company until the location thereof, together with the plans, specifications and estimates thereof, have been approved of by the Hydro-Electric Power Commission of Ontario.

Settlement of disputes.

5. Any disputes or differences that may arise between the water power owners and The Mississippi River Improvement Company, Limited, shall be settled and disposed of by "The Hydro-Electric Commission of the Province of Ontario," or such other arbitrator as may be appointed by the Lieutenant-Governor in Council, whose determination shall be final and conclusive for all purposes.

CHAPTER 158.

An Act respecting The Monarch Fire Insurance Company, Cash, Mutual and Stock.

Assented to 19th March, 1910.

WHEREAS The Monarch Fire Insurance Company, Preamble.
Cash, Mutual and Stock has by petition set forth that the Company was incorporated under *The Ontario Insurance Act*, a license under the said Act having been issued on the thirteenth day of May, A.D. 1903, the authorized capital stock of the Company being \$500,000 divided into 5,000 shares of \$100 each (hereinafter called "old shares") and that the amount of such capital stock subscribed for and outstanding is \$219,400 and that the amount paid in on such subscribed capital stock is \$41,080; that owing to exceptional losses from conflagrations in the past the paid up capital stock has become impaired and that it is necessary and expedient to reduce the capital stock of the Company as hereinafter set forth, and of the twenty per cent. heretofore called and paid up on said "old shares" to write off one-half and to place the excess of the amount so written off over the actual impairment of the capital stock in a reserve fund to the credit of the Company; and whereas, the shareholders of the Company having had due notice and a copy of the proposed By-law passed the same provisionally, the said By-law being expressed in the terms of Sections 1 to 8 (both inclusive) of this Act, and the said By-law to take effect only on the passing of this Act; and whereas, it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Notwithstanding anything contained in the instrument of incorporation of the said Company under *The Ontario Insurance Act* or in the License issued to the said Company, the authorized Capital Stock of the Monarch Fire Insurance Company, Cash, Mutual and Stock, shall on and

Reduction of capital.

after

after the passing of this Act be \$500,000, divided into 10,000 shares of the par value of \$50.00 each (hereinafter called "new shares" or "substituted shares").

Substitution of "new shares" for "old shares" and cancellation of "old shares."

2.—(1) On and from the passing of this Act each shareholder of the Company shall be deemed to be and shall be the holder of as many "new shares" or "substituted shares" in the capital stock of the Company as at the passing hereof he holds "old shares" therein and, except in relation to creditors and policyholders of the Company as hereinafter provided, all "old shares" held by any shareholder shall be deemed to have been surrendered and cancelled.

One-half of amount paid on old shares to be applied on new shares.

(2) On the "new shares" or "substituted shares" there shall be deemed to have been paid into the Company one-half of the amount which was paid into the Company upon the corresponding "old shares" and the holder of each "new share" or "substituted share" shall be liable to the Company for the difference (if any) between fifty dollars and the amount so deemed to have been paid on such "new shares" or "substituted shares"; provided if at the passing of this Act any shareholder is in default of payment of a call or calls made on the "old shares" nothing herein contained shall diminish or otherwise, howsoever, affect the liability of such shareholder to the Company in respect of the said call or calls.

Rights of creditors not affected.

3. Nothing herein contained shall be deemed to diminish the liability (if any) of any shareholder in respect of the "old shares" to any person or persons who immediately prior to the passing of this Act was creditor or was the holder of a policy unexpired at the passing hereof; but any payment made to the Company upon a "new share" or "substituted share" shall reduce the liability of such shareholder by the amount of such payment.

Calls.

4. The Directors may from time to time make such calls on "new shares" or "substituted shares" as they think fit, (not in any case exceeding the amount unpaid on any "new share" or "substituted share") whether such new shares are substituted for old shares or are new shares issued without such substitution; and such calls shall be payable at such times and places and in such payments or instalments as the Directors appoint; provided that no call shall exceed ten per cent. and that not less than 30 days' notice of any call shall be given; provided also that no call shall be made on the "new shares" or "substituted shares" until the holders of the new shares hereafter issued without substitution shall have been called upon to pay twenty per cent. upon each such new share.

Proviso.

5. The Company may from time to time issue at the par value of fifty dollars per share, the whole or any portion of the authorized but unissued Capital Stock of the Company, and so that the whole Capital Stock of the Company, issued and subsisting shall not exceed at any time the sum of \$500,000.

Issue of
stock.

6. Every new issue of the Capital Stock of the Company shall be first offered for subscription to the then shareholders in proportion as nearly as possible to their then respective holdings; and all shares of the Capital Stock of the Company shall rank *pari passu*.

Shareholders
to have first
option.

7. No shares of the Capital Stock of the Company shall be issued or allotted by the Company at a less price than par.

Shares not to
be issued at
less than par.

8. Of the twenty per cent. heretofore called and paid up on said "old shares" one-half is hereby written off and the excess of the amount written off over the actual impairment of Capital Stock shall be placed in a reserve fund to the credit of the Company.

One-half of
amount paid
up on old
shares written
off.

CHAPTER 159.

An Act respecting the Saint Thomas Cemetery Company.

Assented to 7th March, 1910.

Preamble.

WHEREAS "The Saint Thomas Cemetery Company" was incorporated by an Act of the Parliament of Canada, passed in the 28th year of Her late Majesty's reign, chaptered 58, for the purpose of carrying on a cemetery in the City of St. Thomas, but by the said Act it was provided that the real estate to be acquired and held by the said Company for cemetery purposes should not exceed in all ten acres; and whereas authority has been obtained from time to time by special Acts of this Legislature to purchase and acquire other lands and to increase the size of the said cemetery to about fifteen acres; and whereas the greater part of the lots in the said cemetery have been sold, and it is necessary and expedient that a new cemetery should be purchased and acquired outside of the City of St. Thomas; and whereas the said company have by their petition prayed that they may be empowered to purchase lands for a new cemetery outside of the said city, and to borrow, use and apply the monies derived from the sale of lots in the present cemetery towards payment of the purchase money of such new cemetery, and the laying out of the same; and it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Purchase of
lands outside of
city for ceme-
tery purposes.

1. The Board of Directors of The Saint Thomas Cemetery Company may purchase, acquire, hold, possess and enjoy such real estate as may be required for cemetery purposes, in any Township adjoining the City of St. Thomas, not exceeding one hundred acres, and may sell and convey the same from time to time for the purpose of a cemetery, and also may sell and convey any portion of the land so purchased or acquired that the Board may not wish to use or that may not be desirable for cemetery purposes.

2. The Board of Directors may borrow, use and apply such portion of the monies in their hands realized from the sale of lots in the present St. Thomas Cemetery as they may deem necessary in payment, or in part payment, of the purchase money of such new cemetery, and in laying out the same, and may borrow and raise by way of mortgage of the said lands, or of any portion thereof, any balance of such purchase money.

Application of monies in hand towards purchase of new cemetery.

3. After the purchase of such new cemetery the monies and accounts of the two cemeteries shall be kept separate and distinct, and all monies borrowed by the Board of Directors under the next preceding section shall be repaid by such Board as soon as possible out of the sales of lots in the new cemetery, and one-half of the proceeds of such sale shall be applied towards the repayment of the sum or sums so borrowed until the same and the interest thereon have been satisfied.

Accounts of old and new cemetery to be kept separate.

4. Interest at the rate of four per cent. per annum shall be paid by the said Board on all monies so borrowed.

Interest.

5. Except as hereinbefore provided, all monies, as well as the interest on the same, and the investment thereof derived from the sale of lots or burial sites in either cemetery, shall be kept, used and applied by such directors in the maintenance, preservation, improvement and embellishment of such cemetery.

Maintenance, preservation, etc., of cemetery.

6. The Board of Directors holding office at the time of purchase or acquisition of such new cemetery shall be and shall continue to be directors of the company during their respective term of office, and shall have the management and control of the affairs of both cemeteries, and shall in respect to both cemeteries possess, exercise and enjoy all the powers, duties and obligations conferred upon them by the Act of Incorporation of "The Saint Thomas Cemetery Company," and their successors from time to time shall be elected in the manner provided by the said Act, except that after lots or burial sites have been sold in the new cemetery, all such lot holders shall be entitled to vote at any meeting for the election of directors, or upon any other questions on which lot holders are entitled to or required to vote.

Term of office and powers of directors.

7. The lot holders of the present St. Thomas Cemetery may by resolution, to be passed at any annual meeting, fix the amounts to be paid to the directors for their attendance at meetings of the Board; and, after the establishment of the new cemetery, the lot holders of such cemetery may in like manner fix the amount to be contributed by them to the

Fees of directors.

directors

directors for their services, and the said directors shall be entitled to be paid the same accordingly.

Application of
provisions of
28 Vic. c. 58.

8. All the provisions of the Act of Incorporation of the said company, except in so far as the same are altered or amended by this Act, shall apply to such new cemetery; and the control and management thereof.

CHAPTER 160.

An Act respecting the Trustees of the Toronto
General Burying Grounds.*Assented to 7th March, 1910.*

WHEREAS the Trustees of the Toronto General Burying Preamble.
Grounds have by their Petition prayed for authority to sell and convey lands owned by them not required for burial purposes, and to have their rights as to the investment of funds defined, and to have Section 4 of the Act passed in the 14th and 15th years of Her late Majesty's reign, Chaptered 167, amended; and whereas it is expedient to grant the prayer of the said Petition;

Therefore His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. The Trustees of the Toronto General Burying Grounds are hereby authorized and empowered from time to time to sell and dispose of upon such terms as they may consider expedient, and at any time before making interments therein any portion or portions of the lands owned by them which in their judgment now are or hereafter may become unsuitable for Cemetery purposes or which may not be required for such purposes and to convey and assure the same to the purchasers thereof. Power to sell lands.

2. The said Trustees of the Toronto General Burying Grounds may from time to time invest, lend and advance any funds or moneys of the Trustees held as part of the perpetual care of lots fund and any other moneys from time to time in their hands, in or upon such securities as Loan Corporations are under the laws of the Province of Ontario entitled to invest their funds. Investment of funds.

14 and 15 v.
c. 167, s. 4,
repealed.

3. Section 4 of the Act passed in the 14th and 15th years of Her late Majesty's reign, Chaptered 167, is hereby repealed, and the following section substituted:—

“4. Every part of the said Burying Grounds shall be enclosed by walls or other sufficient fences or railings to the height of five feet at least.”

CHAPTER 161.

An Act to incorporate The Hamilton
School of Anatomy.*Assented to 19th March, 1910.*

WHEREAS Ingersoll Olmsted, Archibald Edward Malloch and Alexander Bryson Osborne, all of the City of Hamilton, in the County of Wentworth, licensed practitioners of Medicine, Surgery and Midwifery, have by their petition represented that they desire to establish, carry on and maintain a school in or near the said City of Hamilton for the advanced study of anatomy and surgery; and whereas the usefulness of such school will be promoted by the possession of corporate privileges and powers; and whereas the said petitioners have prayed that an Act may be passed for that purpose; and whereas it is expedient to grant the prayer of such petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. The said Ingersoll Olmsted, Archibald Edward Malloch and Alexander Bryson Osborne, together with such other persons as may hereafter become members of the said corporation, are hereby constituted a body corporate and politic by the name of "The Hamilton School of Anatomy," and by that name shall have perpetual succession and a common seal, with power to break, alter, or renew the same at pleasure, and may by that name contract and be contracted with, sue and be sued, and may purchase, take and hold any real and personal property which may be granted, exchanged, given, devised or bequeathed to the said corporation, and may lease, mortgage, or sell and convey or otherwise dispose of the same at pleasure.

2. The said corporation shall have power to conduct, carry on and maintain in or near the City of Hamilton, in the County of Wentworth, a school for the advanced study of the Science of Anatomy and Surgery, by the delivery of lectures and by such other modes of imparting knowledge there-

of

of as the said corporation may from time to time deem expedient, or as the advance of surgical knowledge may demand, and all such incidental powers as may be necessary to carry out the provisions of this section.

School declared to be within the provisions of Rev. Stat. c. 177.

3. The said school shall be a recognized medical school within the meaning and purpose of *The Ontario Anatomy Act*, and shall be qualified to receive for dissection, for the purposes of the study of anatomy and surgery, the bodies of dead persons upon the conditions and subject to the provisions of *The Ontario Anatomy Act*.

Officers.

4. There may be elected by and from the members of the said corporation in such way and manner as the said corporation may in their by-laws direct such officers as the said corporation may from time to time deem necessary.

By-laws.

5. The said corporation shall have power to make such by-laws as may be necessary for the conduct of its affairs and business, superintendence, management, improvement, sale, lease, mortgage or purchase of any property belonging to or acquired by the corporation; the appointment, removal and qualification of members thereof; the appointment, removal, duties and remuneration of the lecturers, teachers and other officers; the government of the said school; and all other things necessary for carrying into effect the provisions of this Act, as the members thereof shall from time to time deem expedient, but so that such by-law shall not be in anywise repugnant to law or inconsistent with this Act.

Exercise of powers.

6. All the powers of the said corporation may be exercised by a majority of the members thereof present at any meeting thereof or by a majority of such members thereof as may by the by-laws be declared to be a quorum for the transaction of business, and any deed or instrument under the seal of the corporation and signed under the direction of the said corporation by the officers appointed for such purpose by the corporation, or by the duly appointed attorney of the corporation, shall be held to be the deed of the said corporation.

Members not to be liable for debts of corporation.

7. No individual member of the said corporation shall in his private capacity be liable for any debt, obligation or act of the corporation.

CHAPTER 162.

An Act respecting The Oshawa Young Men's
Christian Association.*Assented to 7th March, 1910.*

WHEREAS The Oshawa Young Men's Christian Association has for its object the spiritual, mental and physical welfare of the Young Men of the Town of Oshawa and the neighborhood thereof, and the promotion of Christian Work in that Town; and whereas the Municipal Corporation of the Town of Oshawa has by petition prayed that the buildings of the said Association, and the lands whereon the same are or may be erected, be exempted from taxation, except for Local Improvements, and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows;

1. Such buildings of The Oshawa Young Men's Christian Association, and the lands whereon the same are erected, as are or may be hereafter occupied by and used for the purposes of the said Association, are declared to be exempted from taxation, except for local improvements.

Exemption
from taxation
of Oshawa
Y.M.C.A.

CHAPTER 163.

An Act to amend the Act to incorporate The
Ottawa Young Men's Christian Association.*Assented to 7th March, 1910.*

Preamble.

WHEREAS The Ottawa Young Men's Christian Association (hereinafter called the Association) was incorporated by an Act passed in the 63rd year of the reign of Her late Majesty Queen Victoria, Chaptered 140, being "An Act to incorporate the Ottawa Young Men's Christian Association," and the Association has by Petition prayed that the said Act be amended as hereinafter set forth, and it is expedient to grant the prayer of the said Petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

63 V. c. 140,
s. 1, amended.

1. Section one of the said Act passed in the 63rd year of the reign of Her late Majesty Queen Victoria, Chaptered 140, is amended by adding the following subsection:

Power to
hold lands

(2) The said Association may also acquire and hold lands in the Counties of Carleton and Renfrew not exceeding in value \$10,000 for summer camping grounds and athletic and playing fields, but such lands shall not be exempt from taxation as provided by section 11; and it is hereby declared that the said amendment shall be retroactive and shall apply to any lands in the said Counties heretofore acquired by the Association.

Objects of
Association.

2. Section three of the said Act is amended by inserting after the word, "gymnasiums" in the fourth line thereof, the words "dormitories, bedrooms, lunch-rooms," but any portion of the Association's buildings and lands used for or as dormitories, bedrooms or lunch rooms shall be subject to assessment and taxation for municipal purposes, except in so far as the same may be decided to be exempt therefrom in the action now pending between the Association and the Corporation of the City of Ottawa.

CHAPTER

CHAPTER 164.

An Act to incorporate the Port Arthur Young Men's
Christian Association.*Assented to 19th March, 1910.*

WHEREAS Isaac Lamont Matthews, Joshua Coatsworth Dobie, Norman Thomas Cronkite, John Bowman, Norman Gasper Lunan, William Blecher Lauder Howell, David Loudon Cranston, John Lovell Meikle, John McKay, Charles Edward King, James William Crooks, Samuel Brennagh, William Sydney Beaver, John Reeve, and James Meek, all of the City of Port Arthur, in the District of Thunder Bay, have by their petition prayed for an Act of Incorporation under the name of the "Port Arthur Young Men's Christian Association," with power to acquire and hold freehold or leasehold or other interests in real estate, and other property for the purpose of the Association, and with other powers; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Isaac Lamont Matthews, Joshua Coatsworth Dobie, Thomas Norman Cronkite, John Bowman, Norman Gasper Lunan, William Blecher Lauder Howell, David Lauder Cranston, John Lovell Meikle, John McKay, Charles Edwin King, James William Crooks, Samuel Brennagh, William Sidney Beaver, John Reeve and James Meek and such other persons as are now or shall hereafter become members of the Port Arthur Young Men's Christian Association shall be and they are hereby constituted a body politic and corporate under the name of "The Port Arthur Young Men's Christian Association," and shall have power to acquire and hold real estate in the City of Port Arthur in the District of Thunder Bay, or any leasehold or other interest therein, provided the annual value of the real estate so acquired or held and not actually used for the work of the said Association does not exceed at any one time \$10,000 and the same or any part thereof, to alienate, mortgage, lease or otherwise charge or dispose

Incorporation and powers.

dispose of, as occasion requires; and may also acquire any other real estate or interest therein (so that the annual value of the same shall not at any one time exceed \$5,000) by gift, devise or bequest if made at least six months before the death of the party making the same, and may hold such estate or interest therein for a period of not more than seven years, and may within that period alienate or dispose of the same and the proceeds of such estate or interest therein as shall have been so alienated or disposed of shall be invested in public security, county or municipal debentures, or other approved securities for the use of the said Corporation, and such estate or interest as may not within the said period have been alienated or disposed of may be forfeited to the Crown.

No power
to trade in
real estate.

2. Nothing herein contained shall authorize the said Corporation to engage in the business of trading in the business of real estate.

Constitu-
tion and
by-laws.

3. The Constitution and by-laws of the Association prior to its incorporation and under which the said Association has been conducted are and shall continue to be the constitution and by-laws of the said Association, but they or any of them may be added to or repealed and others substituted therefor.

Directors.

4. The Corporation may by by-law provide for the number of directors and as to their qualifications, mode of election and the time for which they shall hold office and may by by-laws from time to time increase or decrease such number.

Officers.

5. The officers of the said Association at the time of the passing of this Act shall be the officers of the said Corporation and shall retain their respective offices until others shall be elected in their place.

Power to
obtain Deed
from city
for site.

6. The City of Port Arthur by itself or by its Board of Education or Public Parks Board, after a by-law of the city for such purpose has been assented to by the ratepayers entitled to vote on money by-laws, may, pursuant to the terms of any agreement in that behalf, transfer and convey to the said Corporation, as soon as may be after the passing of this Act, the lands described in such agreement or by-law as a site for a building for the purposes of The Port Arthur Young Men's Christian Association, and such conveyance shall be valid and binding.

Object of
incorpora-
tion.

7. The object of the said Corporation shall be the spiritual, mental, social, and physical improvement of young men by the maintenance and support of meetings, lectures, reading rooms, libraries, gymnasium and such other means as may from time to time be determined upon.

8. The buildings, lands and equipment of the said Corporation so long as and to the extent to which they are occupied by and used for the purpose of the said Corporation, are declared to be exempted from all school and municipal taxation except for local improvement. ^{Exemption from taxation.}

9. (1) Every contract, agreement, engagement or bargain made and every bill of exchange drawn or accepted and every promissory note and cheque made or drawn on behalf of the said Corporation by the president, vice-president, secretary, and treasurer of the Corporation, or any two of them, in general accordance with their powers as such under the by-laws of the Corporation shall be binding upon the Corporation (but promissory notes or cheques payable to the order of the Corporation may be endorsed by either the secretary or treasurer of the said Corporation) and in no case shall it be necessary to have the seal of the Corporation affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or endorsed as the case may be, in pursuance of any special by-law or special vote or order, nor shall the party so acting within his authority as agent, officer or servant of the Corporation be thereby subjected, individually, to any liability whatsoever in respect thereof. ^{As to contracts, notes, etc.}

(2) Nothing in this section shall be construed to authorize the Corporation to issue any note, payable to the bearer thereof, or any promissory note intended to be circulated as money or as the note of a bank.

CHAPTER 165.

An Act respecting the Young Men's Christian Association of Woodstock, Ontario.

Assented to 19th March, 1910.

Preamble.
Rev. Stat.
c. 11.

WHEREAS an Association incorporated under *The Act respecting Benevolent, Provident and other Societies* as the "Young Men's Christian Association of Woodstock" has existed for several years, having for its objects the spiritual, mental and physical welfare of the young men of the City of Woodstock and surrounding municipalities, and the promotion of Christian work in that City, and is governed by a constitution and by-laws which have received the assent of the members of the said Association, and the said Association have by petition prayed that it be empowered to acquire or hold real estate to a greater value than they now possess, and that the buildings, lands and equipment of the said Association may be exempted from taxation; and for other minor powers; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Corporation continued.

1. The corporate existence of the said Association is hereby continued.

Power to acquire and hold real estate.

2. The Young Men's Christian Association of Woodstock shall have power to acquire and hold real estate in the City of Woodstock, Ontario, or any leasehold or other interest therein to the value of Fifty thousand dollars (\$50,000.00), and the same or any part thereof to alienate, exchange, mortgage, lease or otherwise charge or dispose of as occasion may require.

Trading in real estate prohibited.

3. Nothing herein contained shall authorize the said Corporation to engage in the business of trading in real estate.

4. The constitution and by-laws of the Association are Constitution and by-laws and shall continue to be the constitution and by-laws of the said Association, but they, or any of them, may be added to, amended or repealed, and others substituted therefor in the manner and subject to the conditions and provisions therein stated.

5. The Corporation may by by-law increase or decrease Directors. the number of directors, and provide as to their qualifications, mode of election, and the time for which they shall hold office.

6. The personal property of the Association shall become Personal estate of Association vested in Corporation. the property of, and is hereby vested in, the said Corporation.

7. The said Corporation shall have power to establish a Technical Education. system of technical education, including such branches of science and the development of such of the industrial arts as the Board of Directors of the said Corporation may from time to time determine.

8. The buildings, lands and equipment of the Young Exemption from taxation. Men's Christian Association of Woodstock, so long as occupied and used for the purposes of the Association, are declared to be exempted from taxation, except for local improvements.

9.—(1) Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or Contracts, bills of exchange, etc. endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the said Corporation by any agent, officer or servant of the Corporation in general accordance with his powers as such under the by-laws of the Corporation, shall be binding upon the Corporation, and in no case shall it be necessary to have the seal of the Corporation affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or endorsed, as the case may be, in pursuance of any special by-law or special vote or order; nor shall the party so acting within his authority as agent, officer or servant of the Corporation be thereby subjected individually to any liability whatsoever in respect thereof.

(2) Nothing in this section shall be construed to authorize the Corporation to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money or as the note of a bank.

Rights and
powers of As-
sociation con-
tinued, except
when incon-
sistent.

10. All the rights and powers of the said Association are continued except in so far as the provisions of this Act may be inconsistent therewith, in which case the former to the extent of such inconsistency are repealed.

CHAPTER 166.

An Act to authorize Lester McDonnell Coulter to Practise Medicine in the Province of Ontario.

Assented to 19th March, 1910.

WHEREAS Lester McDonnell Coulter, of the City of ^{Preamble.} Toronto, in the County of York, and Province of Ontario, Doctor of Medicine, has by his petition represented that he matriculated as a student in medicine at the University of Toronto, on the 25th day of June, 1895, and thereafter was admitted as a student in medicine at the University of Trinity College, Toronto, that he successfully pursued his medical studies in the University of Toronto and in the University of Trinity College in the years 1895, 1896, 1897, 1898 and in 1899; that he graduated as Doctor of Medicine in University of Trinity College in the month of June, 1899, and received his diploma bearing date the First day of July, 1899, that on the 30th day of May, 1899, he was admitted as a fellow (by examination) of Trinity Medical College, Toronto; that on the 5th day of July, 1899, he was admitted as a licentiate of The Royal College of Physicians and Surgeons, at Kingston, in the Province of Ontario, as duly qualified to practise medicine, surgery and midwifery; that after graduation at the University of Trinity College he proceeded to the Province of Nova Scotia, where he was on the 28th day of July, 1900, licensed to practise medicine in the said Province by the Provincial Medical Board of the Province of Nova Scotia, an examining Board similar to that of the College of Physicians and Surgeons of Ontario; that he is still a duly qualified medical practitioner in the Province of Nova Scotia; that for two years he has been obliged for personal and family reasons to reside and has resided in the City of Toronto, in the Province of Ontario, and applied to the Council of the College of Physicians and Surgeons of Ontario to be admitted to registration as a member of the College of Physicians and Surgeons of Ontario, and to practise medicine in the Province of Ontario, but his application was refused; and whereas it has been made to appear that the said Lester McDonnell Coulter has practised as a physician and surgeon for eight years

and

and has substantially if not technically complied with the requirements of the College of Physicians and Surgeons of Ontario; and whereas it is expedient to grant the prayer of the petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Lester
McDonnell
Coulter
authorized to
practise as
a physician.

1. The said Lester McDonnell Coulter, on passing the intermediate and final examinations prescribed by the College of Physicians and Surgeons of Ontario, and on paying the requisite fees in that behalf, shall be admitted to practise as a physician and surgeon in the Province of Ontario.

CHAPTER 167.

An Act respecting the Estate of Blanche Eleanor Leslie.

Assented to 7th March, 1910.

WHEREAS Blanche Eleanor Leslie, late of the City of ^{Preamble.} Toronto, in the County of York, married woman, deceased, departed this life on or about the 19th day of April, one thousand nine hundred and nine, intestate, and leaving her surviving her only and lawful husband, Colonel John Knox Leslie, and her only and lawful child, Dorothy Winslow Eleanor Louise Leslie, an infant under the age of twenty-one years, and whereas the said Blanche Eleanor Leslie died seized of *inter alia* the lands and premises set forth in Schedule "A" to this Act; and whereas the Union Trust Company, Limited, were, on or about the twenty-eighth day of May, one thousand nine hundred and nine, granted Letters of Administration of all and singular the property of the said Blanche Eleanor Leslie; and whereas the said Blanche Eleanor Leslie by memorandum in writing dated the 9th day of April, 1909, agreed with Andrew M. Hobberlin for a lease of the lands set forth in the said Schedule for the period of twenty-one years computed from the first day of April, one thousand nine hundred and ten; and whereas the said Administrators have by their petition set forth that it is to the advantage of the heirs of the said Blanche Eleanor Leslie that said Administrators should have power to grant such a lease of such lands; and whereas Counsel on behalf of Colonel John Knox Leslie and the Official Guardian on behalf of the infant, have approved of the provisions hereof; and whereas the said Administrators have prayed that an Act may be passed for the above purposes; and whereas it is expedient to grant the prayer of the said Petition:

Therefore His Majesty, by and with the advice and with the consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Power to
lease certain
lands.

1. The said Administrators of the said Estate of the said Blanche Eleanor Leslie, deceased, or such other Corporation as may for the time being be Administrator of the said Estate shall be at liberty in their discretion, and with the approval of the Official Guardian are hereby empowered to lease the lands set forth in the Schedule to this Act, to such person or persons, firm or Corporation as may be desirous of leasing same, for a period not exceeding twenty-one years computed from the first day of April, one thousand nine hundred and ten, upon such terms and conditions as may be agreed upon with the approval of the Official Guardian, notwithstanding the provisions of any Act to the contrary.

SCHEDULE "A."

All and Singular that certain parcel or tract of land situate, lying and being in the City of Toronto, in the County of York, and being composed of part of Town lot number 1, on the south side of Richmond Street, which said parcel of land may be more particularly described as follows: Commencing at the south-east angle of Yonge and Richmond Streets; thence north 74 degrees east 145 feet more or less along the south side of Richmond Street to the west side of a lane; thence south 16 degrees east along the west side of said lane 75 feet 7 inches more or less to the production easterly of the south face of brick building known as 151 Yonge Street; thence south 74 degrees west to and following the said south face of said wall 145 feet more or less to Yonge Street; thence on a course north 16 degrees west 74 feet 6 inches along the east limit of Yonge Street to the south-east corner of Yonge and Richmond Streets to the place of beginning; together with a right of way in common with all others entitled thereto in, over, along and upon the said lane in rear of the said above described lands.

CHAPTER 168.

An Act respecting the Estate of Charles Northcote.

Assented to 7th March, 1910.

WHEREAS the Toronto General Trusts Corporation, Preamble.
and Charles Northcote, Lydia Northcote, Charles Richard Northcote, Ernest B. Northcote, Victor Northcote, Minnie L. Northcote, George Northcote, Mabel A. Janes, Lydia E. McDevitt, and John H. Northcote, all of the Township of Etobicoke, in the County of York, have by their Petition represented that by the Act passed in the 53rd year of the reign of Her Late Majesty Queen Victoria, Chaptered 150, the will of Richard Northcote was declared to be effectual, and to be deemed to confer upon Charles Northcote the right to sell and convey by deed in fee simple absolute the lands therein referred to and all the estate, right, title and interest of the said testator therein, notwithstanding any restrictions on alienation contained in the said will; and it was further provided that the purchaser or purchasers should pay the purchase money in to The Toronto General Trusts Corporation, or The Trusts Corporation of Ontario, who should or might invest the same as therein directed, and that the annual income from such investments should be received by or paid to the said Charles Northcote for and during the term of his natural life; and power was thereby given to him to dispose by his last will and testament of the said purchase money or property among his child, children or more remote issue, or any of them either exclusively, or in such parts, shares and proportions, and for such estate or estates, interest or interests, with such limitations and remainders, and in such manner or form, as he might respectively direct, limit or appoint, and in default of such direction, limitation or appointment that the same should be divided among his children and children of deceased children, *per stirpes*, share and share alike; that doubts have been raised as to the effectiveness of the said Act to affect and bind the rights of those persons who would be entitled to the said lands, if Charles Northcote were to die intestate, by reason of its failure to mention or refer to those persons, as required by paragraph 53 of section 7 of *The Interpretation Act*; and whereas the said

7 Edw. VII.
c. 2.

Petitioners

Petitioners have prayed that an Act may be passed to remove said doubts; and whereas it is expedient to grant the prayer of the said Petition:

Therefore His Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Provisions of
53 V. c. 150,
declared to be
binding on
certain
persons.

1. It is declared and enacted that the Act passed in the 53rd year of the reign of Her Late Majesty Queen Victoria, Chaptered 150, intituled "An Act to enable Charles Northcote to settle certain lands," was intended to affect the rights of, and be binding upon, and to mention and refer to, those persons, who would be entitled to the lands in the said Act referred to, if Charles Northcote were to die intestate, and that the said Act is binding upon, and was from the time of the passing thereof binding upon those persons.

Powers con-
ferred by
53 V. c. 150,
to over-ride
provisions of
will of Rich-
ard Northcote.

2. And it is hereby further declared and enacted that the powers conferred by the said in part recited Act upon the said Charles Northcote were intended to and shall over-ride the provisions of the Will and Codicil of Richard Northcote mentioned in the preamble to the said Act, notwithstanding the restriction thereby imposed upon the right of the said Charles Northcote to sell or mortgage the lands thereby devised to him, and to affect the estates, rights, and interests of all persons entitled to claim thereunder, and the right of the heirs or personal representatives of the said Richard Northcote, and of all persons claiming under them to enter upon the said lands or to claim or hold the same, or any of them, for breach of the condition restraining the said Charles Northcote from selling or mortgaging the said lands, so as to enable the said Charles Northcote to sell and convey the said lands for an estate in fee simple absolute, or other the whole estate of the said Richard Northcote therein, but subject, however, to the provisions of Section 2 in the said Act.

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*Second Session, Twelfth Legislature,
10 Edward VII., 1910*

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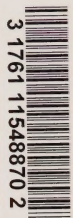
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